

Legislative Budget Analysis 2013 Biennium

Volume 6—Agency Budgets

Judicial Branch, Law Enforcement and Justice
(Section D)



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Legislative
Fiscal Division



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Legislative Budget Analysis

2013 Biennium



Volume 6 – Agency Budgets

Presented to the Sixty-Second Legislature

Submitted by the
Legislative Fiscal Division

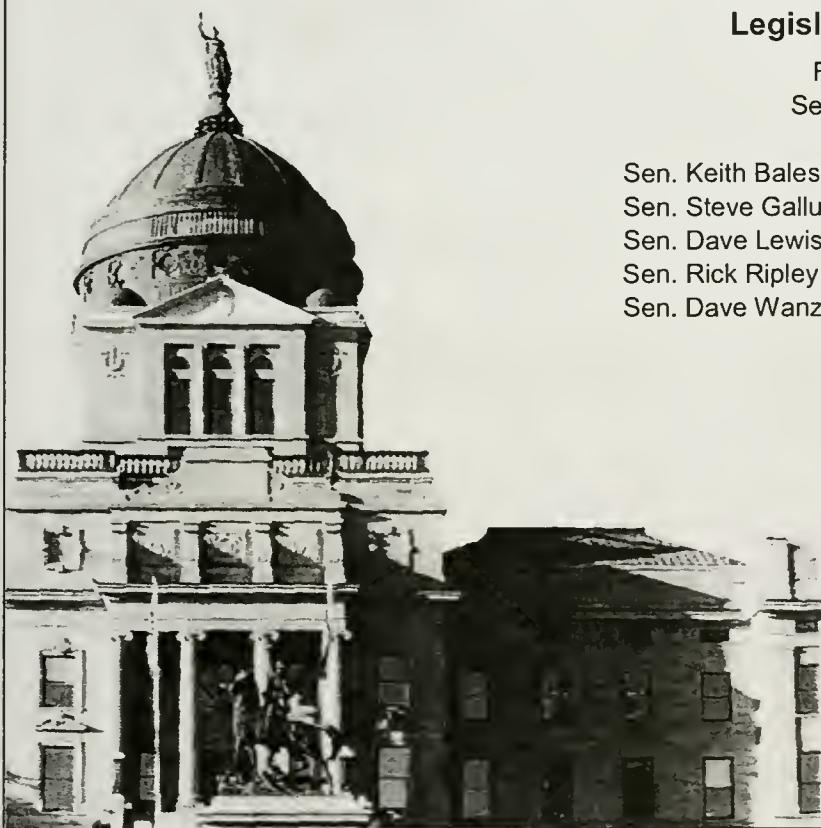
Amy Carlson, Legislative Fiscal Analyst

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AGENCY SUBCOMMITTEE GROUPINGS

The following sections (A through F) provide a detailed explanation and analysis of the executive budget for each agency and agency program that contains appropriations in HB 2. The agencies are grouped by functional categories that mirror agency groups by appropriations subcommittee. The groups are summarized below. Programs funded with proprietary funds are not funded in HB 2, but an explanation and analysis of these programs are included in each agency narrative for the purpose of legislative rate-setting.

GENERAL GOVERNMENT (Section A)

Legislative Branch
Consumer Counsel
Governor's Office
Secretary of State
Commissioner of Political Practices
State Auditor
Revenue
Administration
Commerce
Labor and Industry
Military Affairs

EDUCATION (Section E)

Office of Public Instruction
Board of Public Education
School for the Deaf and Blind
Montana Arts Council
State Library Commission
Montana Historical Society
Commissioner of Higher Education
Community Colleges
University Units and Colleges of Technology
Agricultural Experiment Station
Montana Extension Service
Forestry and Conservation Experiment Station
Bureau of Mines & Geology
Fire Services Training School

HEALTH AND HUMAN SERVICES (Section B)

Public Health and Human Services

LONG-RANGE PLANNING (Section F)

Long-Range Building Program
State Building Energy Conservation
Long-Range Information Technology Program
Treasure State Endowment Program
Treasure State Endowment Regional Water System
Renewable Resource Grant & Loan Program
Reclamation & Development Grant Program
Cultural and Aesthetic Grant Program
Quality School Facilities Program

NATURAL RESOURCES AND TRANSPORTATION (Section C)

Fish, Wildlife, and Parks
Environmental Quality
Transportation
Livestock
Natural Resources and Conservation
Agriculture

JUDICIAL BRANCH, LAW ENFORCEMENT, AND JUSTICE (Section D)

Judicial Branch
Crime Control Division
Justice
Public Service Regulation
Office of Public Defender
Corrections

Where can you find each section in the *Legislative Budget Analysis 2013 Biennium*, Volumes 3-7?

Volume 3 contains Section A
Volume 4 contains Section B
Volume 5 contains Section C
Volume 6 contains Section D
Volume 7 contains Sections E & F
Volume 8 is on the LFD website

AGENCY BUDGET ANALYSIS (ROAD MAP)

The purpose of the "Agency Budget Analysis" (LFD Volumes 3 through 7) is to provide a resource for legislators and members of the public to understand and allow for action on state agency budgets. It is designed to be a working document for use by the joint appropriations subcommittees. It does this by:

- Detailing components of the executive budget
- Raising budget and other issues for legislative consideration

This section provides a roadmap for using the Agency Budget Analysis volumes by discussing each component.

BUDGET TIERS

The section is constructed based on the statutory requirement that the budget be presented in three tiers:

1. Base budget;
2. Present law budget; and
3. New proposals.

(For a further explanation of these tiers and how they are derived, see page 1 of the "Reference" section, or the publication entitled "Understanding State Finances and the Budgeting Process", available through the Legislative Fiscal Division and on the Internet at http://leg.mt.gov/content/publications/fiscal/leg_reference/Understanding_State_Finances.pdf). The analysis is presented in a manner to allow the legislature to see and act on each present law adjustment and new proposal made to the base budget to derive the executive budget, by summarizing and raising issues with those adjustments.

LEGISLATIVE FISCAL DIVISION (LFD) ISSUES AND COMMENTS

While LFD staff has written the entire analysis document, parts are meant strictly to explain what is in the executive budget in a way that does not justify or advocate the executive position.

The heart of the analysis is in two areas:

1. The LFD issues and comments provided on the proposed budget. If the LFD analyst has raised an issue with anything contained in the executive budget or with any other aspect of agency operations and expenditures, it is included as an "LFD Issue". The analyst may also provide additional information to aid the legislature in its decision making under the heading "LFD Comment". All issues and comments are clearly identified in the narrative; and
2. Other issues and options. In order to provide the legislature with alternatives to the executive budget, as well as budget-making flexibility, LFD staff has provided other issues and options for consideration by the legislature.

COMPONENTS OF THE AGENCY BUDGET ANALYSIS

For all multiple program agencies, the narrative is divided into two parts:

1. The agency narrative; and
2. The program narrative.

Agency Narrative

The agency narrative provides an overview of the executive budget and other issues and options for that agency. Since the legislature appropriates at the program level, only issues raised in the analysis with an agency-wide or multiple-program impact are discussed at this level. All other discussion occurs within the relevant program narratives.

Each agency narrative has the following components.

1. The **Main Table** shows the adjusted actual expenditures and appropriations of the current biennium and the executive request for the upcoming biennium by year. The reader can use this table to get a general idea of the size and funding of the agency, and compare the upcoming biennium totals to the current biennium.
2. The agency organizational chart follows, with contact information, and funding and FTE information for each unit of the agency in the chart. If the agency spends statutory or proprietary funds, they are listed separately
3. Two tables compare sources and funding and types of expenditures as proposed by the executive for the upcoming biennium to the current biennium.
4. **Agency Description** is a brief description of the agency, along with its mission statement.
5. **Agency Highlights** is a table showing the principal factors influencing the budget and any related discussion. It is designed to aid the reader in gaining an understanding of the overall agency budget or significant budget areas.
6. **Agency Discussion** provides additional information or overarching discussion. In addition, if the previous legislature funded any new initiatives of an agency-wide nature, a brief update is provided. For each agency, a recap of any agency-wide goals and objectives monitored by the Legislative Finance Committee during the interim, are listed and discussed as appropriate, as are any goals the LFC recommends the legislature review during the legislative session.
7. **5% Reduction Plan** provides a table and discussion on the statutorily required plan by agencies to reduce base expenditures by 5%. The LFC recommends that the starting point be the adjusted base minus this plan.
8. **Personal Services** provides the legislature with pertinent data on personal services that would allow the legislature to identify and address those factors impacting personal services expenditures and related policy issues. Factors addressed in this section include market salaries and obstacles to achievement of market goals. The program sections address other, program specific questions.
9. **Funding** is a table and related discussion that shows the total biennium funding, by program and fund type, proposed by the Governor.
10. **Statutory Appropriations** is a table showing any statutory appropriations received by the agency, in order to provide a more complete picture of total appropriations.
11. **Budget Summary by Category** summarizes the executive budget by base budget, statewide present law adjustment, other present law adjustments, and new proposals proposed by the Governor for each year of the biennium.
12. If included by the executive, a discussion of the following two types of proposals is included, each with LFD comments as appropriate:
 - o **Supplemental Appropriations** discusses supplemental appropriations recommended by the Governor for current fiscal year, or supplemental appropriations approved in the last fiscal year.
 - o **Reorganizations** details any major reorganization that took place in the current biennium or is proposed by the executive for the upcoming biennium
13. **Language** includes any agency-wide language proposed by the executive.
14. **Executive Recommended Legislation** is a listing and discussion of any legislation with a likely fiscal impact proposed by the executive and pertinent to the agency. This section is designed to

alert the legislature to other legislation not included in HB 2 that could have a bearing on the agency budget and operation.

15. **Agency Issues** is a discussion by the LFD analyst of any identified agency-wide or multi-program issues. Otherwise, all discussions of adjustments and attendant issues are included in the relevant program narratives.
16. **Elected Officials New Proposals** lists new proposals advocated by agencies headed by either an elected official or the Board of Regents but not included in the executive budget.

Note: The main and budget summary tables, the agency description, mission, and the highlights and funding tables are included in each agency narrative. However, the other components are "optional", indicating they are included only if circumstances warrant.

Program Narrative

Narratives detailing each agency program follow the agency narrative. The program narrative contains the following components.

1. **The Main Table** contains the same information as the agency main table for each program of the department, including adjusted actual expenditures and appropriations of the current biennium and the executive request for the upcoming biennium, by year.
2. **Program Description** is a short description of the program and its functions.
3. **Program Highlights** is a table showing the principal factors influencing the budget and any related discussion.
4. **Program Narrative** details any points of overall program discussion by the LFD analyst. If the previous legislature funded any new initiatives, a brief update is provided.
5. **5% Reduction Plan** provides a program level discussion of any elements of the agency submitted 5% reduction plan that pertain to the program.
6. **Funding** details program funding as proposed by the executive, and any issues raised by the LFD analyst.
7. **Program Reorganization** details any program reorganizations that took place in the current biennium or that are proposed by the executive for the upcoming biennium.
8. **Budget Summary by Category** summarizes the executive budget by base budget, statewide present law adjustment, other present law adjustments, and new proposals proposed by the Governor for each year of the biennium.
9. The **Executive Present Law Adjustments Table** delineates the major present law adjustments included by the executive, by fiscal year and funding source. The table is divided into two sections:
 - o Statewide present law adjustments, which include most personal services adjustments, the executive's vacancy savings recommendation, and adjustments due to fixed costs and inflation
 - o Other present law adjustments proposed by the executive
10. **Executive Present Law Adjustments** discusses each adjustment proposed by the executive in more detail. The section begins with a discussion that addresses personal services expenditures and policy issues specific to the program, including market rate, vacancies, how the legislatively applied vacancy savings was met, pay changes made outside of any legislative pay changes, and the number of employees eligible for full retirement and the related unfunded liability. This discussion is followed by a description of each adjustment proposed by the Governor. The LFD analyst writes the adjustment descriptions based upon justifications submitted by the executive. It should be noted that it is the responsibility of the LFD analyst to explain a requested change, but not to advocate for or attempt to justify that request. If the LFD analyst has raised an issue with the adjustment, it is presented when the adjustment is discussed.
11. The **New Proposals Table** shows each new proposal requested by the executive, by fiscal year and funding source.

12. **New Proposals** discusses each new proposal in more detail. If the LFD analyst has raised an issue with the proposal it is presented with that new proposal. As with present law adjustments, the LFD has written these explanations based upon submissions by the executive. For certain new proposals (and significant present law adjustments), a discussion submitted by the agency (with editing for clarity and brevity by LFD staff) is included that discusses goals, performance criteria, milestones and timetables, and other information designed to provide the legislature with information with which to evaluate the proposal. LFD staff provides any comments or issues with the submission.
13. **Language** recreates any program specific language proposed by the executive, with LFD comments as appropriate.
14. **Executive Recommended Legislation** is a listing and discussion of any legislation with a likely fiscal impact proposed by the executive and pertinent to the program.
15. **Other Issues** contains any issues identified by the LFD analyst unrelated to a specific present law adjustment or new proposal.

The legislature does not appropriate enterprise funds (which fund operations that provide goods or services to the public on a user charge basis) or internal services funds (which fund operations that provide goods and services to other entities of state government on a cost-reimbursement basis). However, the executive must review enterprise funds and the legislature approves all internal service rates. If the program includes a function supported by either an enterprise fund or an internal service fund, a separate section within the relevant program provides the following:

1. **A Fund Balance Table** shows actual and projected rates, revenues, expenditures, and fund balance through the upcoming biennium; and
2. **Narrative** contains a discussion of the function, a description and explanation of the rate requested, and a discussion of any significant present law adjustments or new proposals impacting the requested rate. The LFD analyst addresses any issues and comments as appropriate.

STATEWIDE PRESENT LAW ADJUSTMENTS

“Statewide Present Law Adjustments” are those adjustments applied to each agency based upon either: 1) factors beyond the individual agency control; or 2) other underlying factors. Because of the global application of these factors and the need for consistency among agencies, these adjustments are included in the “statewide” section of the present law table to alert subcommittees and other decision makers that, if adjustments are made to these costs, adjustments should be made to the underlying factors upon which the adjustments are based. The Legislative Finance Committee (LFC) will make a recommendation on these and other adjustments to appropriations leadership.

Personal Services

Personal services costs are derived by taking a “snapshot” of state employee positions and the factors determining compensation rates at a particular point in time. A number of underlying factors will make the upcoming biennium personal services costs different from actual base year costs. The most important are:

Current Biennium Pay Plan and Other Benefits

If the legislature passed a pay plan that is implemented over the biennium, the base year will not reflect all of the costs that must be paid by the agencies when the pay plan is fully implemented. For example, if the legislature provides a percentage increase midway through the first year and another midway through the second year, base year costs will only reflect ½ of the costs of the first increase.

In addition, any changes made to benefits that an agency must pay directly to or in support of an employee, such as pension, or unemployment and workers' compensation insurance, are automatically reflected in the present law personal services.

Vacancy Savings

Vacancy savings is a reduction in personal services costs that results when positions are not filled for the entire year. Vacancy savings will fluctuate within agencies and programs from year to year. In order to provide the legislature with the opportunity to make all policy decisions regarding vacancy savings, each position is funded as if the position were filled for the entire year, regardless of any vacancy savings that may have occurred in the base year.

Termination Pay

Costs incurred by agencies due to termination of employment, such as accrued sick or annual leave, are not included in present law.

Other Adjustments to Pay

All other changes to salaries authorized during the biennium through the "snapshot" date (July of the base year) are included in present law.

Any adjustments to personal services from sources within the control of the executive, such as overtime, new or deleted positions, or proposed transfers, should not be included in the statewide adjustments. If the LFD analyst has identified any of the adjustments in the statewide adjustment line, they are discussed as an LFD issue or comment.

Vacancy Savings

Any vacancy savings proposed by the executive is included, which results in a reduction of personal services costs. If the executive proposes a vacancy savings rate different from the previous rate, it should be included in a decision package.

Inflation/Deflation

The executive budget has inflated or deflated certain operating expenses. Each agency budget is automatically adjusted to add inflation to or subtract deflation from the relevant expenditure items. Therefore, changes to inflation/deflation amounts in the agencies can only be made through an adjustment to the actual expenditure against which the inflation/deflation is applied, rather than to the inflation/deflation factor, itself.

Note: A complete listing of expenditure categories inflated or deflated in the executive budget has been included in the "Reference" section.

Fixed Costs

Fixed costs are costs charged to agencies to fund the operations of certain centralized service functions of state government (such as information technology, messenger services, and legislative audit). Costs charged to the individual agency budgets are based upon the cost in the service agency and the method used to allocate those costs. These fixed costs are automatically added to each agency budget, as appropriate. Any changes to these allocations must be made through a change to the service agency budget, or to the allocation method used by the service agency. The General Government and Transportation Subcommittee will review the fixed costs proposals.

Note: A complete listing of all fixed costs is included in the "Reference" section

JUDICIAL BRANCH, LAW ENFORCEMENT, AND JUSTICE

Section D

JOINT SUBCOMMITTEE OF HOUSE APPROPRIATIONS AND SENATE FINANCE AND CLAIMS COMMITTEES

-----Agencies-----

Judicial Branch	Public Service Regulation
Montana Board of Crime Control	Office of Public Defender
Justice	Corrections

-----Committee Members-----

<u>House</u>	<u>Senate</u>
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Representative Steve Gibson (Chair)	Senator Ryan Zinke
Representative Randy Brodehl	Senator Edward Walker
Representative Cynthia Hiner	Senator Steve Gallus

-----Fiscal Division Staff-----

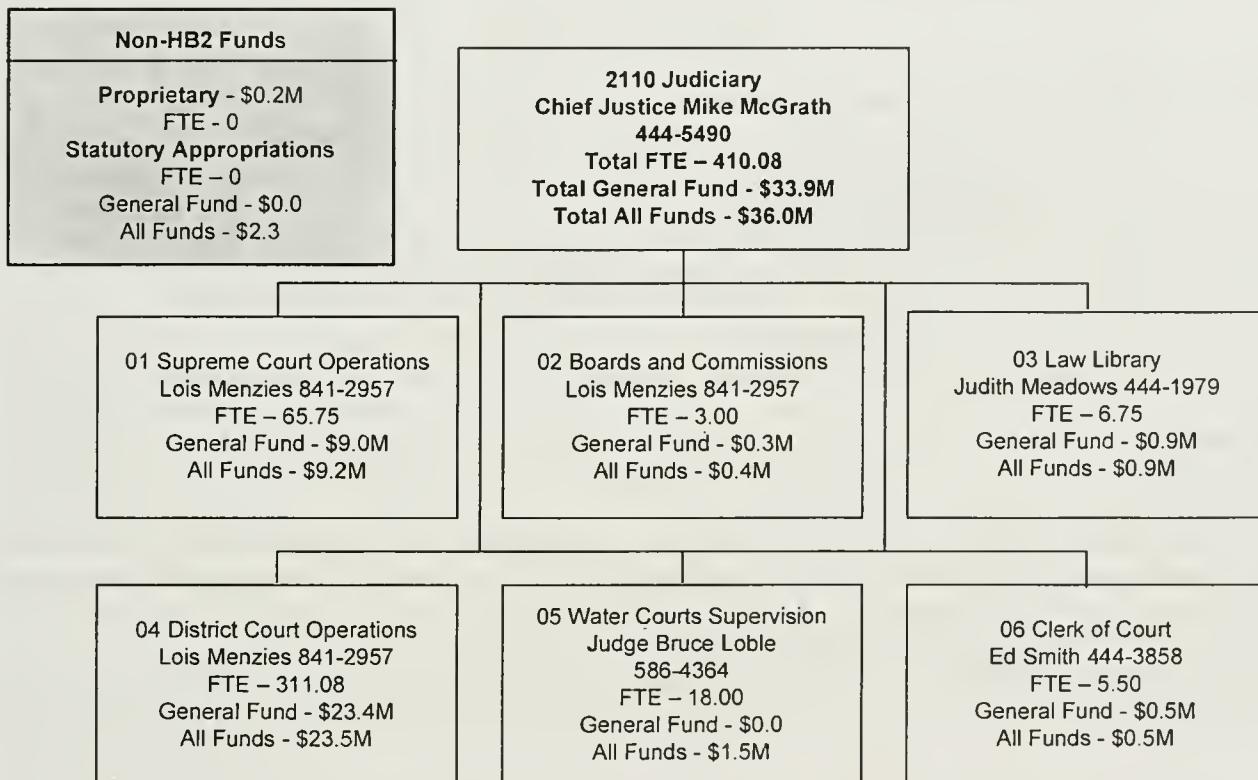
Pat Gervais

Agency Budget Comparison

The following table summarizes the total executive budget for the agency by year, type of expenditure, and source of funding.

Budget Item	Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
FTE	410.08	410.08	419.58	422.24	410.08	422.24	12.16	2.97%
Personal Services	27,508,677	28,995,376	30,834,085	31,106,595	56,504,053	61,940,680	5,436,627	9.62%
Operating Expenses	8,319,831	8,744,097	8,346,360	8,335,637	17,063,928	16,681,997	(381,931)	(2.24%)
Equipment & Intangible Assets	142,165	128,663	142,165	142,165	270,828	284,330	13,502	4.99%
Grants	0	0	0	0	0	0	0	n/a
Benefits & Claims	0	0	0	0	0	0	0	n/a
Transfers	0	0	0	0	0	0	0	n/a
Debt Service	11,651	30,354	11,651	11,651	42,005	23,302	(18,703)	(44.53%)
Total Costs	\$35,982,324	\$37,898,490	\$39,334,261	\$39,596,048	\$73,880,814	\$78,930,309	\$5,049,495	6.83%
General Fund	33,937,675	35,467,158	36,952,194	37,020,776	69,404,833	73,972,970	4,568,137	6.58%
State Special	1,922,472	2,305,683	2,259,135	2,452,283	4,228,155	4,711,418	483,263	11.43%
Federal Special	122,177	125,649	122,932	122,989	247,826	245,921	(1,905)	(0.77%)
Total Funds	\$35,982,324	\$37,898,490	\$39,334,261	\$39,596,048	\$73,880,814	\$78,930,309	\$5,049,495	6.83%

The following is the agency organizational chart, with contact information. The chart has been modified by the LFD to include the FY 2010 base budget FTE, general fund, and total funds for each program. As applicable, total agency proprietary funds and statutory appropriations, along with associated FTE, are also shown.



Agency Description

Mission Statement: The Judicial Branch's mission is to provide an independent, accessible, responsive, impartial and timely forum to resolve disputes; to preserve the rule of law; and to protect the rights and liberties guaranteed by the Constitutions of the United States and Montana.

Article III, Section I, and Article VII of the Montana Constitution authorizes the Judicial Branch. There are six programs within the branch: 1) Supreme Court Operations; 2) Boards and Commissions; 3) Law Library; 4) District Court Operations; 5) Water Court Supervision; and 6) Clerk of the Supreme Court.

Agency Highlights

Judicial Branch
Major Budget Highlights
<ul style="list-style-type: none"> ◆ Funding for the Judicial Branch increases 6.8% (\$5.0 million) when the 2011 and 2013 biennia are compared <ul style="list-style-type: none"> • General fund support for the branch increases 6.6% (\$4.6 million) when the two biennia are compared ◆ The biennial difference is primarily due to the following: <ul style="list-style-type: none"> • No vacancy savings (2% in previous biennium) is applied to the 2013 biennium budget • Additional judges added by the 2009 Legislature (three) are funded for the entire biennium rather than six months • Funding for the court help program (formerly self-help) is included in the 2013 biennium • A portion of the increase in statewide present law adjustments is to replace the use of one-time-only carry forward funds in the base budget year
Legislative Action Issues
<ul style="list-style-type: none"> ◆ Vacancy savings has not been applied to the Judicial Branch ◆ Two items included in the branch's voluntary reductions in April 2010 (consistent with reductions ordered by the Governor per 17-7-140, MCA) require statutory changes ◆ Interim Committee Recommendations <ul style="list-style-type: none"> • The Legislative Finance Committee recommends that the starting point for budget deliberations be the adjusted base less the agency 5% reduction plan

Agency Discussion

Goals and Objectives:

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the Legislative Fiscal Division recommends that the legislature review the following:

- o Goals, objectives and year-to-date outcomes from the 2011 biennium
- o Critical agency goals, objectives, and anticipated outcomes and their correlation to the executive's budget request for the 2013 biennium

2011 Biennium Goals

The following provides an update of the goals monitored by the LFC during the 2011 biennium.

Goal 1 – Impact of applied vacancy savings, turnover, and staffing

- o Successes:
 - The branch was able to achieve 2% vacancy savings as budgeted
- o Challenges
 - Difficulty meeting the applied vacancy savings rate in the District Court Operations Program led to increased vacancy savings in the Supreme Court Operations Program including the Office of Court Administrator
 - Vacancies in information technology positions impacted the branch's ability to support technology and continue projects

LFD COMMENT

Prior to the 2011 biennium vacancy savings had not been applied to the Judicial Branch. However, the 2009 Legislature did apply a 2% vacancy savings rate, reducing funding for branch personal service costs for the 2011 biennium. This was lower than the 7% rate applied to most executive branch agencies with the exception of some institutional functions that had a vacancy savings rate of 4% applied. The budget request submitted for the 2013 biennium does not apply a vacancy savings rate to the Judicial Branch.

Agency Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

The Supreme Court, as directed by 3-1-130, MCA, adopted a pay and personnel plan in July 2002 following the state assumption of district court costs. The court is not part of the Executive Branch broadband pay plan or the Executive Branch's workforce planning activities.

- o **Labor Market Experience** - The Judicial Branch has seen an increase in the size of applicant pools for vacant positions during the last 12-18 months. This has been consistent for most positions and in most locations. It is difficult to determine a trend because turnover has decreased and thus, the need to recruit has decreased. The Judicial Branch has problems filling management level positions such as chief juvenile probation officers but the limited number of vacancies does not establish a trend.
- o **Pay Philosophy** - The Judicial Branch does not have a formal pay philosophy that would allow the use of pay to address workforce planning issues. The Judicial Branch does not have the financial ability to make adjustments to certain key positions or to increase entry-level salaries without creating significant budget issues.
- o **Obstacles** - The Judicial Branch has experienced decreased turnover probably as a result of the overall condition of the economy. The branch strives to remain a desirable employer both in terms of benefits and salary and workplace environment. This will become more difficult in an era of stagnant salaries and the threat of program reductions. The Judicial Branch has one full-time specialist dedicated to human resources and payroll. The branch does not have management resources or support staff to engage in workforce planning activities. This will become a larger problem as more employees approach retirement.

The Judicial Branch has a unified approach to pay and human resources making the information in this section applicable to all programs except the Clerk of the Supreme Court (Program 06).

- o **Pay Plan Exceptions** – n/a
- o **Program Specific Obstacles** - The Judicial Branch is very thinly staffed and can offer little in the way of career growth to staff. Positions with the Supreme Court and District Courts such as judicial assistants, court reporters and law clerks do not provide options for promotion. The same is true in Youth Court where generally the only path to promotion occurs infrequently. Employees seeking promotion or career growth will likely need to leave the Judicial Branch. This will likely become a larger problem if salary freezes continue.

- o **Vacancy** - The Judicial Branch has seen a decrease in turnover recently. However, in previous years the branch has experienced high turnover among law clerks. In some cases this is desirable as the employees join the branch for a year service contract. However, in other areas it limits the ability of the courts to process cases as efficiently as possible. Law clerks tend to leave because private sector salaries are much higher than the Judicial Branch can offer. The Judicial Branch has been unable to offer monetary incentives but focuses on items such as flexible work schedules and reasonable work hours to provide an incentive over the private sector. Any vacancy decreases the ability of the Judicial Branch to complete projects and places additional pressure on remaining staff.
- o **Legislatively Applied Vacancy Savings** - As stated previously, the Judicial Branch has experienced a decrease in vacant positions adding more pressure to keep those positions that do become vacant open for longer periods of time. This creates a significant strain on remaining staff when they assume caseloads or workloads to account for the vacant positions.
- o **Pay/Position Changes** - The Judicial Branch did not make any group base pay adjustments during FY 2010 and FY 2011.
- o **Retirements** - About 60 of the Judicial Branch's employees are currently eligible for full-retirement. It is impossible to predict how many employees would opt to retire in the 2013 biennium. The estimated leave liability for these employees is \$610,000.

**LFD
COMMENT**

The base budget for the branch includes 410.08 FTE. The number of employees eligible for retirement is equal to almost 15% of the authorized FTE level.

Agency Overview

The Judicial Branch, an independent branch of government, provides an independent forum to resolve disputes, preserve the rule of law, and protect the rights and liberties guaranteed by the Constitutions of the United States and Montana. Additionally, Juvenile Probation is part of the District Court Operations Program within the Judicial Branch. The branch provides these services through:

- o The Supreme Court, based in Helena, with seven justices
- o District Courts (56 courts) split into 22 judicial districts with 46 district court judges (as of January 2011), and staff including law clerks, assistants, court reporters, support staff, and juvenile probation officers
- o A Water Court with a chief judge and various water masters and administrative staff specializing in adjudication of water rights
- o Ten boards, commissions, and councils that oversee various aspects of legal practice in the state
- o A state law library in Helena
- o A Clerk of Court for the Supreme Court

The Supreme Court Justices and District Court judges are elected through a nonpartisan ballot. The Clerk of the Supreme Court is also an elected official. The court system within Montana also includes a number of courts of limited jurisdiction that hear cases involving misdemeanor offenses, civil cases for amounts up to \$7,000, small claims up to \$3,000, landlord/tenant disputes, local ordinances, juvenile issues, etc. City or county governments provide most of the funding for courts of limited jurisdiction. However, the branch provides some items, such as some information technology assistance and equipment, training, and costs of annual meetings.

The 2009 Legislature authorized the addition of a district court judge in each of three districts (JD 1 - Lewis and Clark and Broadwater Counties, JD 11- Flathead County, and JD 13 – Yellowstone County). This increases the total number of district court judges from 43 to 46. The new judges were elected in November 2010 and will take office in January 2011.

The general fund budget request for the 2013 biennium is about \$4.6 million greater than the 2011 biennium budget used for comparison purposes. This difference is created by items that are included in the 2013 biennium budget but not the 2011 biennium budget such as: exclusion of vacancy savings (2%), funding additional judges added by the 2009 Legislature for the entire biennium rather than six months, funding for the court help program, and increases in statewide present law adjustments due to the use of one-time-only carry forward funds in the base budget year.

The branch proposes the addition of 9.50 FTE in FY 2012 and an additional 2.66 FTE in FY 2013 (for 12.16 FTE total). The additional positions include:

- o 5.00 FTE due to the annualization of costs related to the addition of three district court judges and staff effective January 1, 2011 (general fund)
- o 3.00 FTE for the court help program (general fund)
- o 1.50 and 4.16 FTE for FY 2012 and 2013, respectively for the Water Court funded by the water adjudication state special revenue account

17-7-140, MCA Reductions

During the 2011 biennium the Governor ordered executive branch agencies to reduce spending in accordance with the provisions of 17-7-140, MCA. While the Judicial Branch is not subject to this statutory requirement the branch did propose and implement voluntary spending reductions consistent with the level of reduction (the equivalent of about 5% of the FY 2011 budget) ordered by the Governor (see table below).

Spending Reductions Consistent with 17-7-140, MCA			
Item	FY 2010	FY 2011	Legislation Needed
Reduce General Operating Expenses	\$2,113	\$82,410	no
Reduce IT Equipment Purchases	0	150,000	no
Revert Portion of IT Long Range Planning Funds	0	340,000	yes
Eliminate Annual JDIP Evaluation for FY 2011	0	25,000	yes
Revert Judicial Standards Comm. Restricted Approp	0	20,000	no
Dept. Corrections - Parental Contributions*	0	600,000	no
Dept. Corrections - Juvenile Placement Reduction*	0	267,000	no
Total	<u>\$2,113</u>	<u>\$1,484,410</u>	

*Impact Judicial Branch funding for youth.

The table illustrates three points related to these reductions:

- o The majority of the proposed reductions will occur in FY 2011 and therefore are not ongoing budget reductions
- o Two of the reductions require legislative action
- o Two items proposed by the Department of Corrections impact funding for juvenile placements and thus the availability of funding for use by juvenile probation, which is part of District Courts

LFD COMMENT

Please refer to the Department of Corrections portion of this analysis that appears later in this section for further information on the juvenile placement budget. Additionally, the Juvenile Delinquency Intervention Program (JDIP), which uses the funds impacted by the Department of Corrections reduction, is discussed later in this narrative in the section titled Statutory Appropriations.

2% Across the Board Reduction

For the 2011 biennium budget the legislature applied a 2% across the board reduction to all agencies. Agencies were free to allocate this reduction among programs and categories of operating expenditures. However, the legislature did specify that this reduction was to be ongoing in nature. Those items that were reductions in categories other than personal services became ongoing based upon the budget development process used by the state. However, reductions that impacted personal service costs did not become ongoing and a decision package to implement them as ongoing reductions is needed.

LFD COMMENT

The Judicial Branch implemented \$14,910 of the 2% across the board reduction as a reduction in personal services. Decision packages are included in the Boards and Commissions, and Clerk of Court programs to continue the reduction.

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

Total 5% Reduction Plan Identified by Agencies, By Division Included and Not Included in Branch Budget 2013 Biennium					
Program/DP Number/Description	FTE	General Fund	% Of Total	State Special Revenue	% Of Total
Supreme Court Operations					
<i>Not Included in Branch Budget</i>					
Civil Legal Assistance				\$7,567	11.3%
Reduce Operating Expenses		\$23,310	1.4%		
2% Vacancy Savings		80,443	4.7%		
Reduce CAP by 35%		14,254	0.8%		
Reduce Drug Courts by 35%		247,949	14.6%		
Reduce FTE	1.50	91,478	5.4%		
Subtotal Not Included in Branch Budget		<u>\$457,434</u>	27.0%	<u>\$7,567</u>	11.3%
Total Supreme Court Operations		\$457,434	27.0%	\$7,567	11.3%
Boards and Commissions					
<i>Not Included in Branch Budget</i>					
Operational Categories				\$4,005	6.0%
Reduce Operating Expenses		\$21,828	1.3%		
2% Vacancy Savings		3,932	0.2%		
Reduce FTE	0.60	12,069	0.7%	0	0.0%
Subtotal Not Included in Branch Budget		<u>\$37,829</u>	2.2%	<u>\$4,005</u>	6.0%
Total Boards and Commissions		\$37,829	2.2%	\$4,005	6.0%
Law Library					
<i>Not Included in Branch Budget</i>					
Operational Categories		<u>\$45,182</u>	2.7%		
Subtotal Not Included in Branch Budget		<u>\$45,182</u>	2.7%	0	0.0%
Total Law Library		\$45,182	2.7%	0	0.0%
District Court Operations					
<i>Not Included in Branch Budget</i>					
Probation Fees				\$6,478	9.6%
Reduce Operating Expenses		\$47,583	2.8%		
Reduce Payments to Contract Court Reporters		31,417	1.9%		
Eliminate Funding for Tumbleweed Contract		59,280	3.5%		
Fixed Contract for GALs		115,160	6.8%		
2% Vacancy Savings		318,676	18.8%		
Reduce Family Evaluator Services by 35%		124,154	7.3%		
Reduce FTE (Youth Court)	4.00	172,100	10.1%		
Reduce FTE	6.00	265,028	15.6%		
Subtotal Not Included in Branch Budget		<u>\$1,133,398</u>	66.8%	<u>\$6,478</u>	9.6%
Total District Court Operations		\$1,133,398	66.8%	\$6,478	9.6%
Water Court					
<i>Not Included in Branch Budget</i>					
Operational Categories		0	0.0%	\$49,193	73.2%
Subtotal Not Included in Branch Budget		0	0.0%	<u>\$49,193</u>	73.2%
Total Water Court		0	0.0%	\$49,193	73.2%
Clerk of Court					
<i>Not Included in Branch Budget</i>					
Operational Categories		<u>\$22,420</u>	1.3%		
Subtotal Not Included in Branch Budget		<u>\$22,420</u>	1.3%	0	0.0%
Total Clerk of Court		\$22,420	1.3%	0	0.0%
Total Reduction Plan					
Included in Branch Budget		0	0.0%	0	0.0%
Not Included in Branch Budget		<u>1,696,263</u>	100.0%	<u>67,243</u>	100.0%
Total Agency Reduction Plan		<u>\$1,696,263</u>	100.0%	<u>\$67,243</u>	100.0%

The Judicial Branch 5% reduction plan includes reductions totaling \$1.7 million general fund and less than \$0.1 million state special revenue. The largest reductions included in the plan are:

- o Personal services, \$540,675 and 12.10 FTE, including 10.00 FTE in the district courts
- o Operating and contract reductions, \$490,334
- o 2% vacancy savings, \$403,051
- o Drug court funding \$247,949 (or 35% of the current funding level).

The bulk of the reductions would occur in the District Court Operations Program (\$1.1 million) and the Supreme Court Operations Program (\$0.5 million), which are the largest programs within the branch. The potential impacts of items included in the 5% reduction plan (including additional information about specific operating and contract reductions) are discussed in more detail in the narrative for the program affected by the reduction.

Funding

The following table summarizes funding for the agency, by program and source, as recommended by the Governor. Funding for each program is discussed in detail in the individual program narratives that follow.

Agency Program	Total Agency Funding 2013 Biennium Budget					Total %
	General Fund	State Spec.	Fed Spec.	Grand Total		
01 Supreme Court Operations	\$ 18,875,241	\$ 396,472	\$ 245,921	\$ 19,517,634	24.73%	
02 Boards And Commissions	609,960	160,111	-	770,071	0.98%	
03 Law Library	1,788,871	-	-	1,788,871	2.27%	
04 District Court Operations	51,734,171	467,299	-	52,201,470	66.14%	
05 Water Courts Supervision	-	3,687,536	-	3,687,536	4.67%	
06 Clerk Of Court	964,727	-	-	964,727	1.22%	
Grand Total	<u>\$ 73,972,970</u>	<u>\$ 4,711,418</u>	<u>\$ 245,921</u>	<u>\$ 78,930,309</u>	<u>100.00%</u>	

The branch receives the majority of its funding (about 94%) from the general fund. The largest sources of state special revenue are the Natural Resources Operation fund and Water Adjudication fund, which support the Water Court. Other sources of state special revenue include fines and fees, assessments for training events, and the accrued county sick/vacation leave fund. Federal funds received by the branch support the court assessment program.

Statutory Appropriation

The following table shows the total statutory appropriations associated with this agency. Because statutory appropriations do not require reauthorization each biennium, they do not appear in HB 2 and are not routinely examined by the legislature. The table is provided so that the legislature can get a more complete picture of agency operations and associated policy.

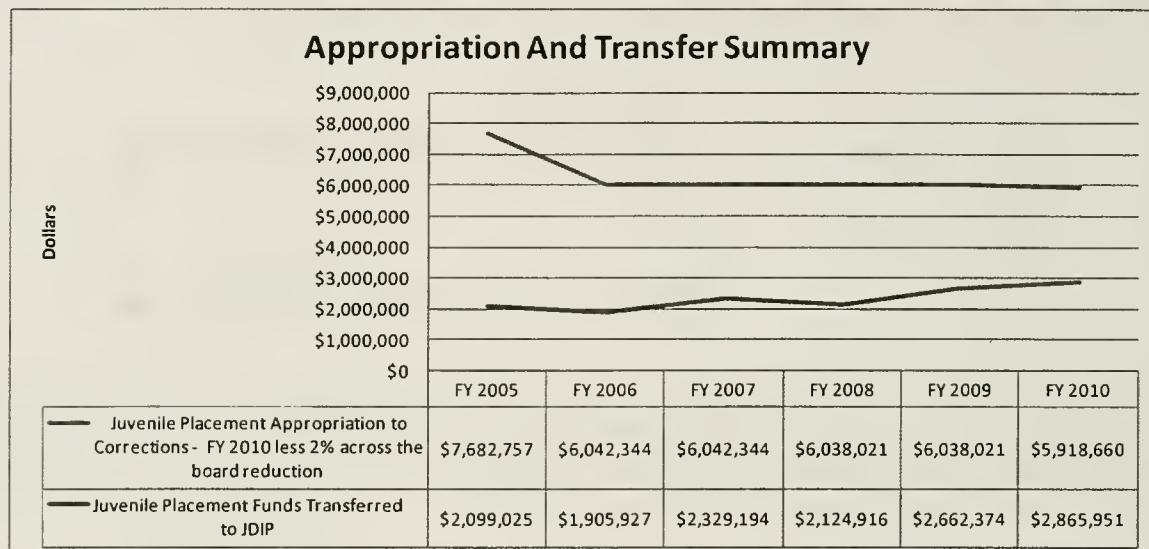
Purpose	Statutory Appropriations Judicial Branch				
	Fund MCA #	Fiscal Source	Fiscal 2008	Fiscal 2010	Fiscal 2011
<u><i>Direct Bearing on Agency Operations</i></u>					
Youth Court Intervention and Prevention Account	41-5-2011	SSR	\$2,012,568	\$2,073,441	\$2,302,764

As appropriate, LFD staff has segregated the statutory appropriations into two general categories: 1) those where the agency primarily acts in an administrative capacity and the appropriations consequently do not relate directly to agency operations; and 2) those that have a more direct bearing on the mission and operations of the agency.

The Youth Court Intervention and Prevention account, commonly referenced as the Juvenile Delinquency Intervention Program (JDIP) is a state special revenue fund that is statutorily appropriated to the Judicial Branch. The account may be used by judicial districts to fund juvenile placements, prevention, and intervention programs including treatment services

and programs to divert youth from youth court involvement and youth correctional facilities. Funds in the account come from the unexpended portion of general fund appropriated to the Department of Corrections for juvenile placements. The branch has two years to expend the money transferred into the fund and at the end of the two year period any unexpended funds transfer to the general fund. For example, FY 2009 money that is transferred into the fund must be expended by the end of FY 2011. The branch typically expends the balance within the specified two year period and transfers to the general fund have been minimal. At the time of this writing the fund had a balance of about \$4.9 million remaining from FY 2009 and 2010 transfers into the account.

Juvenile placement funds are appropriated to the Department of Corrections and are allocated: 1) 11% to the Department of Corrections for juvenile parole placements; 2) at least \$1 million to a cost containment pool; 3) \$25,000 for a program evaluation; and 4) to the judicial districts. Funds remaining in the cost containment pool and allocations to judicial districts at the end of the fiscal year are transferred to the JDIP account for use by the district courts in the following two years.



The figure above illustrates the total appropriation for juvenile placement funds made to the Department of Corrections and the amount of unexpended funds that transferred to the JDIP account by year for FY 2005 through FY 2010. Funding for juvenile placements has remained flat since FY 2006 with a slight reduction in FY 2010 due to allocation of a 2% across the board reduction approved as part of the 2011 biennium budget. While relatively constant from FY 2005 through FY 2008, the amount of unexpended funds transferred to the JDIP account rose in FY 2009 and FY 2010 with the FY 2010 transfer being the largest transfer to date and equal to about 48% of the juvenile placement appropriation.

During the 2011 biennium funding for juvenile placements had been reduced by two actions, the application of a 2% across the board reduction in funding (\$120,000) and reductions ordered by the Governor in accordance with 17-7-140, MCA to reduce FY 2011 funding (\$300,000). Additionally, the Judicial Branch voluntary spending reductions propose savings of \$25,000 by changing the statutory requirement that this amount be expended on a program evaluation. This \$25,000 reduction is proposed by the branch as a one-time reduction. Given the level of unexpended juvenile placement funds transferred to the JDIP account in the past, the impact of these reductions is likely a reduction in the amount of funds transferred. The reduction in the amount of funds transferred to the JDIP account reduces the funding available for expenditure in the two years following the transfer (in this case FY 2012 and 2013).

**LFD
ISSUE**Appropriation Level and Potential Transfer to the General Fund

There are three issues that the legislature may wish to consider regarding this account:

- o The amount appropriated for juvenile placements and whether or not it should be reduced
- o Provision of an appropriation for juvenile placements directly to the Judicial Branch rather than the Department of Corrections
- o Transfer of the fund balance in the account to the general fund

Given that the expenditure of the appropriation for juvenile placements has been decreasing and the amount of funds transferred to the JDIP account increasing, the legislature may wish to consider what level of funds to appropriate for juvenile placements. A reduction in the juvenile placement appropriation would have a trickle down impact on the JDIP account and availability of funds for intervention and prevention programs.

In conjunction with discussion of the level of appropriation the legislature may wish to consider whether or not an appropriation should be made directly to the Judicial Branch rather than the Department of Corrections. There are two options the legislature could consider:

- o Modify the current statutes to reflect the direct appropriation of juvenile placement funds to the Judicial Branch
- o Reduce the level of appropriation for juvenile placement funds to the Department of Corrections and appropriate funding for juvenile intervention and prevention programs directly to the Judicial Branch

If the legislature appropriated funding for juvenile intervention and prevention programs directly to the Judicial Branch the funding would only be available for that biennium unless statute is changed.

The legislature may also wish to consider transferring all or a portion of the unexpended balance in the JDIP account to the general fund. While the branch will most likely expend this balance within the two year time frame provided in statute the legislature may wish to transfer a portion or all of the funds remaining in this account to the general fund.

Potential negative impacts of such a transfer may include:

- o Reduction in funding available during the 2013 biennium for judicial district placements and youth intervention and prevention programs
- o Decreased funding for youth intervention and prevention services that may decrease diversions and increase the number of youth offenders referred to the court resulting in increased need for juvenile placement funds
- o Increased placement of youth in Montana's youth correctional facilities

Potential positive impacts of such a transfer may include:

- o No increase in juvenile placement needs, referrals to youth court, or placements at youth correction facilities
- o Increased operating efficiencies may be identified and implemented
- o New low cost or no cost alternatives to juvenile placement may be identified and implemented

Options:

The legislature may wish to consider the following options that are not mutually exclusive:

- o Reduce the amount appropriated to the Department of Corrections for juvenile placement funds for the 2013 biennium
- o Provide an appropriation directly to the Judicial Branch
 - For juvenile placements
 - For only juvenile prevention and intervention programs
- o Transfer funds from the JDIP account to the general fund
 - An amount equal to the anticipated FY 2011 ending balance
 - A portion of the anticipated FY 2011 ending balance
- o Take no action

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	33,937,675	33,937,675	67,875,350	91.76%	35,982,324	35,982,324	71,964,648	91.17%
Statewide PL Adjustments	2,218,273	2,300,412	4,518,685	6.11%	2,312,118	2,394,427	4,706,545	5.96%
Other PL Adjustments	515,229	502,081	1,017,310	1.38%	758,802	938,689	1,697,491	2.15%
New Proposals	281,017	280,608	561,625	0.76%	281,017	280,608	561,625	0.71%
Total Budget	\$36,952,194	\$37,020,776	\$73,972,970		\$39,334,261	\$39,596,048	\$78,930,309	

Elected Official Proposal

Statute provides that judicial branch budget proposals must be included in the budget submitted by the governor, but expenditures above the current base budget need not be part of the executive request. The branch has indicated it will present the following request that was not included in the executive budget to the legislature for consideration.

Family Evaluator - This proposal requests \$98,841 in general fund money for a full-time family evaluator position to assist District Court judges in the 4th (Missoula and Mineral Counties) and 21st (Ravalli County) Judicial Districts in resolving contested custody matters. A family evaluator would conduct parenting evaluations and make recommendations to the courts regarding parenting decisions in cases involving indigent parties.



The branch indicates that these districts previously appointed and paid an attorney guardian ad litem to assist with these cases. Funding for guardian ad litem was discontinued by the branch beginning in the 2011 biennium as a budget reduction measure. The branch proposes hiring a family evaluator as a more cost effective way to provide assistance to judges in these cases.

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison									
Budget Item	Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change	
FTE	65.75	65.75	68.75	68.75	65.75	68.75	3.00	4.56%	
Personal Services	4,630,756	4,970,608	5,296,258	5,293,497	9,601,364	10,589,755	988,391	10.29%	
Operating Expenses	4,602,133	4,630,604	4,465,318	4,462,561	9,232,737	8,927,879	(304,858)	(3.30%)	
Equipment & Intangible Assets	0	5,199	0	0	5,199	0	(5,199)	(100.00%)	
Grants	0	0	0	0	0	0	0	n/a	
Transfers	0	0	0	0	0	0	0	n/a	
Total Costs	\$9,232,889	\$9,606,411	\$9,761,576	\$9,756,058	\$18,839,300	\$19,517,634	\$678,334	3.60%	
General Fund	8,959,376	9,257,526	9,440,408	9,434,833	18,216,902	18,875,241	658,339	3.61%	
State Special	151,336	223,236	198,236	198,236	374,572	396,472	21,900	5.85%	
Federal Special	122,177	125,649	122,932	122,989	247,826	245,921	(1,905)	(0.77%)	
Total Funds	\$9,232,889	\$9,606,411	\$9,761,576	\$9,756,058	\$18,839,300	\$19,517,634	\$678,334	3.60%	

Program Description

The Supreme Court has appellate jurisdiction for the State of Montana. The court has original jurisdiction to issue, hear, and determine writs of habeas corpus and other writs provided by law. It also has general supervisory control over all other courts in the state. The Supreme Court is charged with establishing rules governing appellate procedure, the practice and procedure for all other courts, and admission to the bar and conduct of its members. Within the Supreme Court Operations program, the Office of Court Administrator provides centralized services to the Judicial Branch including information technology, budget and finance, payroll and human resource management, policy and technical support for the Youth Courts, judicial education, and services provided through the federal Court Assessment Program related to child abuse and neglect cases.

Program Highlights

Supreme Court Operations
Major Budget Highlights
<ul style="list-style-type: none"> ◆ Total funding and general fund support for this program increase 3.6% between the two biennia ◆ The two primary causes of the general fund increase are: <ul style="list-style-type: none"> • A new proposal requesting one-time-only funding for the Court-Help Law Program that has been funded by one-time-only appropriations for the past two biennia • Statewide present law adjustments

Program Narrative

Goals and Objectives:

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the Legislative Fiscal Division recommends that the legislature review the following:

- o Goals, objectives and year-to-date outcomes from the 2011 biennium.
- o Critical agency goals, objectives, and anticipated outcomes and their correlation to the executive's budget request for the 2013 biennium.

2011 Biennium Goals

The following provides an update of the goals monitored by the LFC during the 2011 biennium.

Goal 1 – Montana Supreme Court, Case Processing Measures

o Successes

- Only one pending case is greater than 365 days old
- Time to disposition for direct appeals has decreased

o Challenges

- Retirement of an employee has led to delays preparing case processing measures for the third quarter of calendar year 2010

LFD COMMENT

The 2013 biennium goals and objectives submitted by the branch are unchanged from the previous biennium and are broad based statements that the branch indicates do not change and are based upon the Montana Constitution. Thus, it is questionable whether or not the goals and objectives provide valuable information to the general reader. However, the branch has implemented meaningful performance measures (case processing measures) that provide valuable management information and data about how the court is operating. Goals and objectives that stated the desired outcomes of the performance measures (case processing) adopted by the court would be more beneficial. For example, a goal such as maintain the age of pending cases at 365 or fewer days relates to the case processing measure “age of pending cases” and provides an easily understandable goal that can be compared to actual results.

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

The 5% reduction plan includes reductions of \$457,434 general fund for this program. The largest proposed reduction decreases funding for grants to drug courts by \$247,949 or 35% of the current appropriation level. The next largest reduction decreases FTE (information technology and financial analyst) and applies vacancy savings of 2% (\$171,921) to the program.

The following information is provided so that the legislature can consider the potential impacts of 5% plan reductions when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

Supreme Court Operations: Reduce Drug Court Funding by 35%

Reason For Reduction: This proposal is part of the Judicial Branch's 5% reduction plan, which is required under 17-7-111(3)(f), MCA. It is among the branch's lowest priorities because of the negative impact this reduction would have on drug court operations if implemented.

Affect on Program or Project Outcomes: Montana drug courts provide court and treatment services to non-violent offenders with an alcohol and/or drug abuse dependency to give them the tools and incentives necessary to conquer their substance abuse problems. The 2011 biennium general fund appropriation supports statewide administrative and technical services, local drug court coordination services, and client treatment and support services for twelve drug courts. Reducing financial support for the drug courts by over one-third would force significant changes in the operation of these courts.

Potential operational changes among drug courts would include: closure of one or more courts, elimination of court positions or reductions in work hours, reduction of treatment and other services for clients, and reduction or elimination of statewide support services including technical assistance, data collection, analysis and reporting to the legislature, and training.

Adjusted Performance Criteria: Performance measurements have been developed for each type of drug court – adult, juvenile, family, and co-occurring. These measures may need to be adjusted to reflect diminished resources depending on how any budget reductions would be applied.

FTE Impacts: This proposal may result in elimination or reduction in the number of FTE supporting drug courts at the local and statewide level depending on how any budget reductions would be applied.

Funding Impacts: These proposals would generate \$247,949 in general fund savings per year.

Risks: Drug court programs have resulted in lower recidivism rates for offenders, allowed offenders to stay in their communities to support their families and pay taxes, reduced the number of babies born drug addicted, and reduced the need for foster care. A 35% funding cut would significantly reduce the number of offenders who could be served by these courts, thereby diminishing the societal benefits derived from the programs.

Supreme Court Operations: 2% Vacancy Savings and FTE Reduction

Reason For Reduction: These proposals are part of the Judicial Branch's 5% reduction plan, which is required under 17-7-111(3)(f), MCA. Because over 75% of branch expenditures are attributable to personal services, the branch would not be able to reach its target reduction amount without proposing vacancy savings and FTE reductions. These proposals are among the branch's lowest priorities because of the negative impact they would have on branch operations if implemented.

Affect On Program Or Project Outcomes: It is unlikely that the program would be able to achieve the proposed vacancy savings through attrition alone because the branch's turnover rate has decreased as the economic climate has worsened. Because this program provides centralized services to the Judicial Branch, keeping positions open for lengthy periods would result in less timely support for the courts of limited jurisdiction, district courts, and Supreme Court, especially in the area of court technology.

The proposed FTE reduction would result in eliminating an information technology (IT) business analyst and trainer position (1.00 FTE) and one-half of a financial analyst position (0.50 FTE) within the Office of Court Administrator. Elimination of the IT business analyst and trainer position would result in:

- o Slower response times in meeting the needs of IT users in the courts of limited jurisdiction and district courts, including training and support related to fines and fee collection through the FullCourt case management system
- o A slower deployment schedule for new releases of the case management system

Elimination of the financial analyst may result in slower processing of financial transactions and required financial reporting.

Adjusted Performance Criteria: Response time for centralized service staff providing services in the areas of IT, finance, and court services would be slower, and project deadlines would be extended to reflect the reduced human resources available.

FTE Impacts: Keeping positions open for extended periods of time to generate vacancy savings and eliminating positions would require reassignment of workload to remaining staff. Absorbing the same amount of work with fewer people would likely create a significant burden on employees over time.

Funding Impacts: These proposals would generate \$171,921 in general fund savings per year.

Risks: The Judicial Branch is dependent on its employees to efficiently process cases filed in the courts. Implementation of these proposals would reduce the resources available for the branch to get its work done in a timely manner.

Funding

The following table shows program funding, by source, for the base year and for the 2013 biennium as recommended by the Governor.

Program Funding Table Supreme Court Operations						
Program Funding	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
01000 Total General Fund	\$ 8,959,376	97.0%	\$ 9,440,408	96.7%	\$ 9,434,833	96.7%
01100 General Fund	8,959,376	97.0%	9,440,408	96.7%	9,434,833	96.7%
02000 Total State Special Funds	151,336	1.6%	198,236	2.0%	198,236	2.0%
02536 Legal Assistance	148,236	1.6%	148,236	1.5%	148,236	1.5%
02961 State Grants To Drug Courts	3,100	0.0%	50,000	0.5%	50,000	0.5%
03000 Total Federal Special Funds	122,177	1.3%	122,932	1.3%	122,989	1.3%
03240 Court Assessment Program	122,177	1.3%	122,932	1.3%	122,989	1.3%
Grand Total	<u>\$ 9,232,889</u>	<u>100.0%</u>	<u>\$ 9,761,576</u>	<u>100.0%</u>	<u>\$ 9,756,058</u>	<u>100.0%</u>

Almost 97% of the program's funding comes from the general fund. State special revenues from a portion of the dissolution of marriage fees is utilized to provide civil legal services for indigent victims of domestic violence (3-2-714,MCA) and when combined with fees collected by drug courts provide about 2% of the program's funding. Federal funds support the court assessment program and equate to about 1% of the funding for this program.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	8,959,376	8,959,376	17,918,752	94.93%	9,232,889	9,232,889	18,465,778	94.61%
Statewide PL Adjustments	180,243	172,588	352,831	1.87%	180,998	173,400	354,398	1.82%
Other PL Adjustments	4,862	7,351	12,213	0.06%	51,762	54,251	106,013	0.54%
New Proposals	295,927	295,518	591,445	3.13%	295,927	295,518	591,445	3.03%
Total Budget	\$9,440,408	\$9,434,833	\$18,875,241		\$9,761,576	\$9,756,058	\$19,517,634	

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
FTE	Fiscal 2012				FTE	Fiscal 2013			
	General Fund	State Special	Federal Special	Total Funds		General Fund	State Special	Federal Special	Total Funds
Personal Services				497,274					494,922
Inflation/Deflation				(6,516)					(6,026)
Fixed Costs				(309,760)					(315,496)
Total Statewide Present Law Adjustments	\$180,243	\$0	\$755	\$180,998		\$172,588	\$0	\$812	\$173,400
DP 1002 - Rent North Park Building	0.00	4,862	0	4,862	0.00	7,351	0	0	7,351
DP 1003 - Drug Court Fees	0.00	0	46,900	0	46,900	0.00	0	46,900	0
Total Other Present Law Adjustments	0.00	\$4,862	\$46,900	\$0	\$51,762	0.00	\$7,351	\$46,900	\$0
Grand Total All Present Law Adjustments	0.00	\$185,105	\$46,900	\$755	\$232,760	0.00	\$179,939	\$46,900	\$812
									\$227,651

Program Personal Services Narrative

Please refer to the agency narrative for a discussion of the Judicial Branch pay plan and personal services costs.

The statewide present law adjustment for personal services increases funding for the program by about \$1 million for the biennium due to fully funding vacant positions, increases in employee health insurance costs, and pay increases for Supreme Court Justices as provided by statute.

DP 1002 - Rent North Park Building - This decision package requests funding to cover the increase in lease payments for space rented at the Old Federal Building in Helena. The increase is required per the lease agreement.

DP 1003 - Drug Court Fees - This decision package requests funding to expend fees collected from drug court participants. The drug courts have indicated to Judicial Branch staff that fee collections will significantly increase in the 2013 biennium and the fees that are collected will be used for drug court operating costs.

New Proposals

The “New Proposals” table summarizes all new proposals requested by the Governor. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals									
Program	FTE	Fiscal 2012				FTE	Fiscal 2013		
		General Fund	State Special	Federal Special	Total Funds		General Fund	State Special	Federal Special
DP 1001 - Court Help Program - OTO	01	3.00	295,927	0	295,927	3.00	295,518	0	295,518
Total	3.00	\$295,927	\$0	\$0	\$295,927	3.00	\$295,518	\$0	\$295,518

DP 1001 - Court Help Program - OTO - This decision package requests \$592,546 to continue the Court Help Program, which provides assistance to litigants representing themselves in civil cases. The program consists of full-time staffed court help law centers in Kalispell and Billings, a program coordinator, and a legal resources developer charged with increasing the number of attorneys willing to provide free legal services. Part-time law centers also are funded in Missoula and Bozeman. The law centers provide information and resources to assist people in navigating the civil court system. The program does not provide legal advice or legal representation. The branch indicates that since the creation of the program (2007) more than 10,000 citizens have sought assistance from the program. This program was funded by one-time-only appropriations for both the 2009 and 2011 biennia. 2011 biennium funding for the program was included in HB 645 which implemented the federal American Recovery and Reinvestment Act (ARRA).

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison		Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
Budget Item									
FTE		3.00	3.00	3.00	3.00	3.00	3.00	0.00	0.00%
Personal Services	173,145	183,917	195,495	195,893	357,062	391,388	34,326	9.61%	
Operating Expenses	188,096	175,569	195,959	182,724	363,665	378,683	15,018	4.13%	
Total Costs	\$361,241	\$359,486	\$391,454	\$378,617	\$720,727	\$770,071	\$49,344	6.85%	
General Fund	281,138	288,237	311,515	298,445	569,375	609,960	40,585	7.13%	
State Special	80,103	71,249	79,939	80,172	151,352	160,111	8,759	5.79%	
Total Funds	\$361,241	\$359,486	\$391,454	\$378,617	\$720,727	\$770,071	\$49,344	6.85%	

Program Description

The Boards and Commissions Program provides staff and other support to constitutionally and statutorily required commissions attached to the Montana Supreme Court, specifically the Judicial Standards Commission, the Sentence Review Board, and the Commission on Courts of Limited Jurisdiction. The program also supports activities of the Commission on Practice. Other specialized commissions and task forces, not required by the Constitution and statute but created by the Supreme Court to address specific issues, receive minimal financial assistance with travel expenses and supplies.

Program Highlights

Boards and Commissions
Major Budget Highlights
<ul style="list-style-type: none"> ◆ Total funding for this program increases 6.9% between the two biennia <ul style="list-style-type: none"> • General fund support for the program increases 7.1% between the two biennia, primarily due to statewide present law adjustments and funding for the Judicial Standards Commission

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

The 5% reduction plan for this program includes general fund reductions of \$37,829 through decreasing operating expenses, application of 2% vacancy savings, and reduction of 0.60 FTE. Operating savings would be achieved by reducing training for judges and justices. The potential impacts of staffing reductions are delays in completion of work such as investigation of complaints against attorneys and judges.

The plan for this program also includes a reduction in expenditure of state special revenues (\$4,005) by reducing operating expenses for training for Courts of Limited Jurisdiction.

Funding

The following table shows program funding, by source, for the base year and for the 2013 biennium as recommended by the Governor.

Program Funding Table Boards And Commissions							
Program Funding		Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
01000	Total General Fund	\$ 281,138	77.8%	\$ 311,515	79.6%	\$ 298,445	78.8%
01100	General Fund	281,138	77.8%	311,515	79.6%	298,445	78.8%
02000	Total State Special Funds	80,103	22.2%	79,939	20.4%	80,172	21.2%
02399	Boards And Commissions - Mji	80,103	22.2%	79,939	20.4%	80,172	21.2%
Grand Total		\$ 361,241	100.0%	\$ 391,454	100.0%	\$ 378,617	100.0%

This program receives 79% of its funds from the general fund. State special revenue from fees charged for training events provides 21% of the program's funding.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	281,138	281,138	562,276	92.18%	361,241	361,241	722,482	93.82%
Statewide PL Adjustments	22,563	22,779	45,342	7.43%	22,399	22,848	45,247	5.88%
Other PL Adjustments	13,286	0	13,286	2.18%	13,286	0	13,286	1.73%
New Proposals	(5,472)	(5,472)	(10,944)	(1.79%)	(5,472)	(5,472)	(10,944)	(1.42%)
Total Budget	\$311,515	\$298,445	\$609,960		\$391,454	\$378,617	\$770,071	

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
FTE	Fiscal 2012				Fiscal 2013				
	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services				22,350					22,748
Inflation/Deflation				15					31
Fixed Costs				34					69
Total Statewide Present Law Adjustments	\$22,563	(\$164)	\$0	\$22,399		\$22,779	\$69	\$0	\$22,848
DP 2001 - Judicial Standards Rest/Bien	0.00	13,286	0	13,286	0.00	0	0	0	0
Total Other Present Law Adjustments	0.00	\$13,286	\$0	\$13,286	0.00	\$0	\$0	\$0	\$0
Grand Total All Present Law Adjustments	0.00	\$35,849	(\$164)	\$0	\$35,685	0.00	\$22,779	\$69	\$0
									\$22,848

Program Personal Services Narrative

Please refer to the agency narrative for a discussion of the Judicial Branch pay plan and personal services costs.

DP 2001 - Judicial Standards Rest/Bien - This decision package requests funding to support the constitutionally mandated Judicial Standards Commission. For the past three biennia the legislature has provided a \$25,000 restricted, biennial appropriation to support costs associated with the investigations of complaints against judges. In FY 2010, the base budget year, expenditures of \$5,857 were incurred. This decision package would increase funding available for this purpose to \$25,000 for the 2013 biennium.

New Proposals

The "New Proposals" table summarizes all new proposals requested by the Governor. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals										
Fiscal 2012					Fiscal 2013					
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 2002 - Continuation of 2% reduction - 2009 Session										
02	0.00	(5,472)	0	0	(5,472)	0.00	(5,472)	0	0	(5,472)
Total	0.00	(\$5,472)	\$0	\$0	(\$5,472)	0.00	(\$5,472)	\$0	\$0	(\$5,472)

DP 2002 - Continuation of 2% reduction - 2009 Session - This decision package continues the 2% reduction from the 2009 session that was taken out of personal services. This reduction is in accordance with 17-7-102(10)(b), MCA.

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison		Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
Budget Item									
FTE		6.75	6.75	6.75	6.75	6.75	6.75	0.00	0.00%
Personal Services	395,695	392,725	405,365	405,287	788,420	810,652	22,232	2.82%	
Operating Expenses	372,701	412,609	372,726	372,733	785,310	745,459	(39,851)	(5.07%)	
Equipment & Intangible Assets	108,479	69,326	108,479	108,479	177,805	216,958	39,153	22.02%	
Debt Service	7,901	22,854	7,901	7,901	30,755	15,802	(14,953)	(48.62%)	
Total Costs	\$884,776	\$897,514	\$894,471	\$894,400	\$1,782,290	\$1,788,871	\$6,581	0.37%	
General Fund	884,776	897,514	894,471	894,400	1,782,290	1,788,871	6,581	0.37%	
State Special	0	0	0	0	0	0	0	n/a	
Total Funds	\$884,776	\$897,514	\$894,471	\$894,400	\$1,782,290	\$1,788,871	\$6,581	0.37%	

Program Description

The State Law Library of Montana (22-1-501, MCA) provides access to legal information consistent with the present and anticipated needs, responsibilities, and concerns of Montana's courts, legislature, state officers and employees, members of the bar of the Supreme Court of Montana, and members of the general public. The library selects, acquires, and maintains resources consistent with this mission. The acquisition of more electronic licenses (which frequently replace the hard copies) allows the library to get information to the customer more quickly and to conserve available shelf space for books and other printed material.

Library staff also provides training in legal research methods and access to the Montana court system. The library's web site (www.lawlibrary.mt.gov) has been designed to help Montana's citizens find the statutes, court cases and rules, legal forms, and explanation of the laws they need. 75% of the people the Law Library assists are non lawyers. The library also operates a Self-Help Center in partnership with Carroll College students.

Program Highlights

Law Library
Major Budget Highlights
◆ Funding for this program increases by less than one-half a percent between the 2011 and 2013 biennia due to statewide present law adjustments

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

The 5% reduction plan for this program proposes reductions in operating expenses for purchase of books and other library materials totaling \$45,182. Potential impacts of this reduction are that various publications and materials will not be available for loan to other agencies and branches of state government, public libraries, courts, and the general public. This reduction is equivalent to 18.5% of the Law Library's base budget for books and reference materials.

Funding

The following table shows program funding, by source, for the base year and for the 2013 biennium as recommended by the Governor.

The law library is funded entirely with general fund.

Program Funding Table							
		Law Library					
		Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
Program Funding							
01000 Total General Fund		\$ 884,776	100.0%	\$ 894,471	100.0%	\$ 894,400	100.0%
01100 General Fund		<u>884,776</u>	<u>100.0%</u>	<u>894,471</u>	<u>100.0%</u>	<u>894,400</u>	<u>100.0%</u>
Grand Total		<u>\$ 884,776</u>	<u>100.0%</u>	<u>\$ 894,471</u>	<u>100.0%</u>	<u>\$ 894,400</u>	<u>100.0%</u>

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	884,776	884,776	1,769,552	98.92%	884,776	884,776	1,769,552	98.92%
Statewide PL Adjustments	9,695	9,624	19,319	1.08%	9,695	9,624	19,319	1.08%
Other PL Adjustments	0	0	0	0.00%	0	0	0	0.00%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$894,471	\$894,400	\$1,788,871		\$894,471	\$894,400	\$1,788,871	

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

FTE	Fiscal 2012				Fiscal 2013				
	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services				9,670					9,592
Inflation/Deflation				25					32
Total Statewide Present Law Adjustments	\$9,695	\$0	\$0	\$9,695		\$9,624	\$0	\$0	\$9,624
Grand Total All Present Law Adjustments	0.00	\$9,695	\$0	\$0	\$9,695	0.00	\$9,624	\$0	\$9,624

Program Personal Services Narrative

Please refer to the agency narrative for a discussion of the Judicial Branch pay plan and personal services costs.

Proprietary Rates*Proprietary Program Description*

The Law Library requests that a contractor perform online searches and recovers the costs charged by the contractor for those searches from the requesting party.

Expenses

The only expenses charged to this fund are the costs of online searches/research.

Revenues

Revenues are charged based upon the cost of the search/research performed and are based upon the cost charged by the contractor.

Funding Sources

Funding for this service comes from payments made by the various state, county, and city agencies that use the service.

Proprietary Rates

No change is proposed.

This program is funded with an enterprise type proprietary fund. As such, the legislature does not appropriate funds or approve rates for the program. Instead, the legislature reviews the report for the enterprise fund and identifies any concerns with the financial position of the fund.

2013 Biennium Report on Internal Service and Enterprise Funds				
Fund	Fund Name	Agency #	Program Name	
06019	Searches/Research	21100	Law Library	
			Actual FY10	Budgeted FY11
			Budgeted FY12	Budgeted FY13
Operating Revenues:				
Fee revenue				
Law Library Online Searches Revenue		192,582	195,000	195,000
Net Fee Revenue		192,582	195,000	195,000
Total Operating Revenue		192,582	195,000	195,000
Operating Expenses:				
Personal Services				
Other Operating Expenses		189,722	189,792	189,771
Total Operating Expenses		189,722	189,792	189,771
Operating Income (Loss)	--	2,860	5,208	5,229
Nonoperating Revenues (Expenses):				
Gain (Loss) Sale of Fixed Assets		-	-	-
Federal Indirect Cost Recoveries		-	-	-
Other Nonoperating Revenues (Expenses)		-	-	-
Net Nonoperating Revenues (Expenses)		-	-	-
Income (Loss) Before Operating Transfers		2,860	5,208	5,229
Contributed Capital				
Operating Transfers In (Note 13)		-	-	-
Operating Transfers Out (Note 13)		-	-	-
Change in net assets		2,860	5,208	5,229
Total Net Assets - July 1 - As Restated		3,460	6,320	11,528
Prior Period Adjustments		-	-	-
Cumulative effect of account change		-	-	-
Total Net Assets - July 1 - As Restated		-	-	-
Net Assets - June 30		6,320	11,528	16,757
60 days of expenses				
(Total Operating Expenses divided by 6)		31,620	31,632	31,629
Requested Rates for Enterprise Funds				
Fee/Rate Information				
		Actual FY10	Budgeted FY11	Budgeted FY12
			Budgeted FY13	
Law Library Online Searches				
		189,722	189,792	189,771
			189,823	
The Law Library staff performs on-line searches/research for public and private entities.				
The law library is billed by the on-line provider for the air time and the Law Library, in turn,				

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison		Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
Budget Item									
FTE		311.08	311.08	316.08	316.08	311.08	316.08	5.00	1.61%
Personal Services	20,614,284	21,695,401	23,001,911	23,089,300	42,309,685	46,091,211	3,781,526	8.94%	
Operating Expenses	2,880,010	3,217,803	3,025,463	3,026,498	6,097,813	6,051,961	(45,852)	(0.75%)	
Equipment & Intangible Assets	25,399	40,577	25,399	25,399	65,976	50,798	(15,178)	(23.01%)	
Grants	0	0	0	0	0	0	0	n/a	
Benefits & Claims	0	0	0	0	0	0	0	n/a	
Debt Service	3,750	7,500	3,750	3,750	11,250	7,500	(3,750)	(33.33%)	
Total Costs	\$23,523,443	\$24,961,281	\$26,056,523	\$26,144,947	\$48,484,724	\$52,201,470	\$3,716,746	7.67%	
General Fund	23,363,992	24,554,598	25,822,967	25,911,204	47,918,590	51,734,171	3,815,581	7.96%	
State Special	159,451	406,683	233,556	233,743	566,134	467,299	(98,835)	(17.46%)	
Federal Special	0	0	0	0	0	0	0	n/a	
Total Funds	\$23,523,443	\$24,961,281	\$26,056,523	\$26,144,947	\$48,484,724	\$52,201,470	\$3,716,746	7.67%	

Program Description

The District Courts have original jurisdiction in all felony criminal cases, most civil matters and other cases in law, and in equity. These courts may issue all writs appropriate to their jurisdiction and hear appeals from Courts of Limited Jurisdiction pursuant to statutory parameters. The district courts are also the state's Youth Courts, responsible for managing juvenile probation functions. There are 46 District Court judges in 22 judicial districts serving all 56 counties. The 2001 Legislature mandated state funding of District Court expenses, including salaries and operating expenses for judges and their employees. District Court costs are the largest segment of the Judicial Branch budget.

Program Highlights

District Court Operations
Major Budget Highlights
<ul style="list-style-type: none"> ◆ Funding for this program increases 7.7% (\$3.7 million) between the 2011 and 2013 biennia due to: <ul style="list-style-type: none"> • The exclusion of vacancy savings (2%) • Funding new judges added by the 2009 Legislature and not in place until January 2011 for the entire biennium rather than six months • Increases in statewide present law adjustments due to the use of one-time-only carry forward funds in the base budget year

Program Narrative

Program Overview

The largest change between biennia in this program's budget is the addition of three district court judges and related staff. The 2009 Legislature authorized the addition of a district court judge in each of three districts (JD 1 - Lewis and Clark and Broadwater Counties, JD 11- Flathead County, and JD 13 – Yellowstone County). The new judges were elected in November 2010 and will take office in January 2011. The 2011 biennium budget included funding for the equivalent of 5.00 FTE (10 positions for six months in FY 2011 only) and related operating costs. The 10 positions were authorized for the 2011 biennium as the equivalent of 0.50 FTE each and are included in the adjusted base budget for both FY 2012 and 2013 at this level. The decision package included in the executive budget increases these positions to

full time (or 1.00 FTE each) and requests funding to annualize operating costs associated with the three new judicial districts.

Goals and Objectives:

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the legislature may wish to review the following:

- o Goals, objectives and year-to-date outcomes from the 2011 biennium.
- o Critical agency goals, objectives, and anticipated outcomes and their correlation to the executive's budget request for the 2013 biennium.

2011 Biennium Goals

The following provides an update of the goals monitored by the LFC during the 2011 biennium.

Goal 1 – District Court, Design and Implementation of Court Management Measures

- o Successes
 - Design complete and adopted by the District Court Council
 - Pilot project underway
- o Challenges
 - Development of measures
 - Deployment statewide including coordination among entities

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

The proposed 5% reduction plan for this division includes general fund reductions totaling \$1.1 million. The largest reductions proposed include a decrease of 10.00 FTE (\$437,128) and application of 2% vacancy savings (\$318,676). None of the proposed reductions are included in the executive budget.

The following information is provided so that the legislature can consider the potential impacts of 5% plan reductions when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

District Court Operations: 2% Vacancy Savings and FTE Reduction

Reason For Reduction: These proposals are part of the Judicial Branch's 5% reduction plan, which is required under 17-7-111(3)(f), MCA. Because over 75% of branch expenditures are attributable to personal services, the branch would not be able to reach its target reduction amount without proposing vacancy savings and FTE reductions. These proposals are among the branch's lowest priorities because of the negative impact they would have on district court operations if implemented.

Affect On Program Or Project Outcomes: It is unlikely that the program would be able to achieve the proposed vacancy savings through attrition alone because the branch's turnover rate has decreased as the economic climate has worsened. Therefore, vacant positions would need to remain open for extended periods of time to generate the necessary vacancy savings.

A district court judge is highly reliant on three key support positions: a judicial assistant, a court reporter, and a law clerk. Keeping any of these positions open for lengthy periods of time would impede the day-to-day operations of the court. Because a district court is a court of record, a judge could not conduct legal proceedings without a court reporter to record the proceedings. A vacant law clerk position would force a judge to conduct his or her own legal research, which would reduce the amount of time that a judge could spend in the courtroom hearing cases. Similarly, when a

judge is required to handle administrative tasks (e.g., preparing letters, scheduling meetings) because a judicial assistant is unavailable, the judge's time on the bench would be reduced. Youth Court staffing also is lean, and because of the direct service nature of the juvenile probation personnel, it would be difficult to maintain vacancies for a significant amount of time.

The proposed FTE reduction would result in eliminating 6.0 FTE in the district courts and 4.0 FTE in the juvenile probation offices. These positions would be eliminated in various judicial districts throughout the state and would reduce administrative, clerical, and courtroom support for the district courts and direct services for juveniles referred to the youth courts. Eliminating positions in the district courts would lengthen the time for disposing of cases because judges would have fewer resources to assist them in processing cases. Eliminating positions in the juvenile probation offices would increase the caseload of remaining staff, which may impact public safety.

Adjusted Performance Criteria: Court management tools are currently being developed for the district courts. These tools identify specific time reference points for the closure of each case type. The time reference points may need to be adjusted to reflect diminished resources.

FTE Impacts: Keeping positions open for extended periods of time to generate vacancy savings and eliminating 10 positions would require reassignment of workload to remaining staff. Absorbing the same amount of work with fewer people would likely create a significant burden on employees over time.

Funding Impacts: These proposals would generate \$755,804 in general fund savings per year.

Risks: Applying calendar year 2009 case filings to the district courts' judicial workload assessment model indicates that for many judicial districts, the caseload has reached a point at which timely processing of cases, even those with statutory priority for adjudication, is nearly impossible. As a result, those cases with no statutory priority such as: business disputes, divorces cases, debt collection cases, and property conflicts are being scheduled farther and farther out on judges' calendars, stranding many Montanans in legal limbo.

Funding

The following table shows program funding, by source, for the base year and for the 2013 biennium as recommended by the Governor.

Program Funding Table District Court Operations						
Program Funding	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
01000 Total General Fund	\$ 23,363,992	99.3%	\$ 25,822,967	99.1%	\$ 25,911,204	99.1%
01100 General Fund	23,363,992	99.3%	25,822,967	99.1%	25,911,204	99.1%
02000 Total State Special Funds	159,451	0.7%	233,556	0.9%	233,743	0.9%
02141 District Court Crim. Reimb.	129,559	0.6%	129,690	0.5%	129,826	0.5%
02788 Acc. Cty Sick/Vacation Leave	29,892	0.1%	103,866	0.4%	103,917	0.4%
Grand Total	\$ 23,523,443	100.0%	\$ 26,056,523	100.0%	\$ 26,144,947	100.0%

The bulk of the funding for District Court Operations comes from the general fund. State special revenue is generated from court imposed fines and fees and county payments to the accrued sick/vacation leave fund made at the time of state assumption of District Court costs. Federal funds supporting the program are generally time limited grant awards that support special projects such as drug courts.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	23,363,992	23,363,992	46,727,984	90.32%	23,523,443	23,523,443	47,046,886	90.13%
Statewide PL Adjustments	1,961,894	2,052,482	4,014,376	7.76%	1,962,073	2,052,848	4,014,921	7.69%
Other PL Adjustments	497,081	494,730	991,811	1.92%	571,007	568,656	1,139,663	2.18%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$25,822,967	\$25,911,204	\$51,734,171		\$26,056,523	\$26,144,947	\$52,201,470	

Present Law Adjustments

The “Present Law Adjustments” table shows the changes to the adjusted base budget proposed by the executive. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

FTE	Fiscal 2012				Fiscal 2013					
	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services				1,967,129					2,055,669	
Inflation/Deflation				(5,235)					(3,187)	
Fixed Costs				179					366	
Total Statewide Present Law Adjustments	\$1,961,894	\$179	\$0	\$1,962,073		\$2,052,482	\$366	\$0	\$2,052,848	
DP 4001 - New Judges and Staff Base Adjustment	5.00	497,081	0	497,081	5.00	494,730	0	0	494,730	
DP 4004 - State Special for Accrued Leave Payouts	0.00	0	73,926	73,926	0.00	0	73,926	0	73,926	
Total Other Present Law Adjustments	5.00	\$497,081	\$73,926	\$571,007	5.00	\$494,730	\$73,926	\$0	\$568,656	
Grand Total All Present Law Adjustments	5.00	\$2,458,975	\$74,105	\$0	\$2,533,080	5.00	\$2,547,212	\$74,292	\$0	\$2,621,504

Program Personal Services Narrative

Please refer to the agency narrative for a discussion of the Judicial Branch pay plan and personal services costs

Statewide present law adjustments add almost \$2.0 million per year in personal service costs due to: health insurance cost increases, fully funding positions that were vacant in the base, elected official salary increases as provided by statute, new judges and staff for one half of a year, and replacement of one-time-only carry forward funds that were used in the base budget year.

DP 4001 - New Judges and Staff Base Adjustment - This decision package requests funding to support three new judges (and support staff) as provided by the 2009 Legislature in SB 158. The three additional judges will be elected in November 2010 and take office in January 2011. A District Court judge was added in the 1st, 11th and 13th judicial districts (one each). The Judicial Branch received an appropriation to support 5.0 FTE (10.0 FTE for six months of the year) and associated costs in FY 2011. Because the FY 2010 base budget does not include a full year's costs related to the additional judges and staff, annualization of the anticipated costs must be included in a decision package.

DP 4004 - State Special for Accrued Leave Payouts - This decision package requests state special revenue funding to support projected retirement payouts for employees who became state employees at the time of district court assumption. When a Judicial Branch employee who was a county employee at the time of district court assumption retires, the Judicial Branch pays his or her accrued sick and annual leave from this state special revenue fund.

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison									
Budget Item	Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change	
FTE	18.00	18.00	19.50	22.16	18.00	22.16	4.16	23.11%	
Personal Services	1,300,692	1,338,299	1,497,463	1,685,966	2,638,991	3,183,429	544,438	20.63%	
Operating Expenses	222,603	252,655	241,654	245,879	475,258	487,533	12,275	2.58%	
Equipment & Intangible Assets	8,287	13,561	8,287	8,287	21,848	16,574	(5,274)	(24.14%)	
Total Costs	\$1,531,582	\$1,604,515	\$1,747,404	\$1,940,132	\$3,136,097	\$3,687,536	\$551,439	17.58%	
State Special	1,531,582	1,604,515	1,747,404	1,940,132	3,136,097	3,687,536	551,439	17.58%	
Total Funds	\$1,531,582	\$1,604,515	\$1,747,404	\$1,940,132	\$3,136,097	\$3,687,536	\$551,439	17.58%	

Program Description

The Water Courts Supervision Program, located in Bozeman, adjudicates claims of existing water rights in Montana pursuant to Title 3, Chapter 7 and Title 85, Chapter 2, MCA.

Program Highlights

Water Court Supervision Major Budget Highlights
<ul style="list-style-type: none"> ◆ Funding for the water court increases 17.6% between the 2011 and 2013 biennia due to: <ul style="list-style-type: none"> • Statewide present law adjustments • A request to shift positions from the Department of Natural Resources and Conservation (DNRC) to the Water Court

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

The 5% reduction plan for this program proposes reducing operating expenditures by \$49,193 state special revenue. According to the court reductions across all categories would be undertaken in an effort to achieve the 5% savings. For example, the program may decrease or eliminate in-person public meetings to reduce advertising and travel costs. This type of reduction may impact water user understanding of water rights adjudication.

Other alternatives identified by the court in the event operating plan reductions could not be achieved include delaying water court decrees, delaying hiring for vacant positions, voluntary leave without pay, and mandatory staff reductions.

Funding

The following table shows program funding, by source, for the base year and for the 2013 biennium as recommended by the Governor.

Program Funding Table Water Courts Supervision						
Program Funding	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
02000 Total State Special Funds	\$ 1,531,582	100.0%	\$ 1,747,404	100.0%	\$ 1,940,132	100.0%
02431 Water Adjudication	547,718	35.8%	672,414	38.5%	863,484	44.5%
02576 Natural Resources Operations Ssr Ff	983,864	64.2%	1,074,990	61.5%	1,076,648	55.5%
Grand Total	<u>\$ 1,531,582</u>	<u>100.0%</u>	<u>\$ 1,747,404</u>	<u>100.0%</u>	<u>\$ 1,940,132</u>	<u>100.0%</u>

The Water Court is supported entirely by state special revenue from the renewable resources grant and loan account and the water adjudication account. Legislation passed by the 2007 Legislature (HB 473 of the regular session) transferred \$25.0 million from the general fund to the state special revenue account for adjudication of water rights claims.

Department of Natural Resources and Conservation Water Adjudication Fund (02431)				
	Actual FY 2010	Appropriated FY 2011	Executive Request	
			FY 2012	FY 2013
Beginning Balance	\$22,839,014	\$17,817,765	\$14,434,861	\$11,442,851
<u>Expenditures</u>				
Judiciary - Water Court	548,294	562,870	672,414	863,484
DNRC - Water Resources	2,363,493	2,857,040	2,295,331	2,227,572
DNRC - Centralized Services	114,994	84,994	146,265	
Total Expenditures	3,026,781	3,504,904	3,114,010	3,091,056
<u>Revenues</u>	69,671	122,000	122,000	122,000
Transfer Out	(2,064,139)	0	0	0
Ending Fund Balance	<u>\$17,817,765</u>	<u>\$14,434,861</u>	<u>\$11,442,851</u>	<u>\$8,473,795</u>

Potential Funding Issues For Water Adjudication

Downstream states and Canada are demanding water in increasing amounts. Montana cannot defend its water use from other states' demands or calls on water until it has completed the adjudication of all the water rights in Montana and knows how much of the state's water is currently being claimed and used. Issuing water right decrees for every basin in Montana will help the state establish its historic usage. Decrees protect Montana users and assist in settling disputes among users. Enforcing water rights is only possible with a water right decree in place. To expedite this process, the 2005 Legislature passed HB 22 requiring the department to complete claims examination by June 30, 2015. Subsequently, the Water Court would have an additional five years to finish the process by issuing preliminary or temporary preliminary decrees by June 30, 2020.

The program was initially funded by a water right fee deposited to the water adjudication fund. However, in the 2007 legislative session the fee was eliminated and the fund was provided a \$25.0 million transfer from the general fund. According to 85-2-280, MCA, the fund was to be sufficient to finish the on-the-ground work and fund the Water Court until FY 2020. However, estimates show that at the end of FY 2015, the water adjudication fund will have less than \$2.0 million to fund the remaining work of issuing and enforcing decrees.

After DNRC completes claims examination the Water Court begins its process of hearings and resolution of objections, and issues a temporary preliminary decree. Before the decree can be finalized Indian and federal reserve water rights for the basin must be negotiated into a compact and submitted to the Water Court for adjudication. The court process to resolve objections concerning claims and reserve water rights can take several years. While FY 2020 is the deadline for the Water Court to issue the temporary preliminary decrees for all basins in the state, work on these decrees will continue past this deadline.

**LFD
ISSUE**Water Adjudication Fund Appropriation Limits

The legislature established in statute a limit on expenditures for the Water Adjudication Program from FY 2006 through FY 2015. The intent of this limitation was to allow the fund to be used for adjudication activities and to provide resources for the five years of estimated water court work after the on-the-ground portion has been completed.

Department of Natural Resources & Conservation Water Adjudication Fund Statutory Limit and Disbursements				
Fiscal Year	Limit	Disbursements	Difference	Cumulative
2013	\$3,197,672	\$3,239,095	(\$41,423)	(\$2,562,280)
2012	3,104,536	3,114,010	(9,474)	(2,520,857)
2011	3,014,113	3,504,904	(490,791)	(2,511,383)
2010	2,926,323	5,090,920	(2,164,597)	(2,020,592)
2009	2,841,090	3,193,938	(352,848)	144,005
2008	2,758,340	2,784,071	(25,731)	496,853
2007	2,678,000	2,437,545	240,455	522,584
2006	2,600,000	2,317,871	282,129	282,129

The figure compares the actual, appropriated, and requested amounts with the statutory limit that has been inflated 3 percent per year. As shown, the statutory limit is exceeded in FY 2008 through FY 2013. The cumulative effects are not negative until FY 2009 because expenditure levels in FY 2006 and FY 2007 were less than the statutory amount. The cumulative amount increases dramatically in FY 2010 when approximately \$2.0 million was transferred to the natural resources operations fund to assist with a funding shortage.

It is projected that at the end of FY 2015 the Water Court would have approximately \$1.8 million to complete five years of work. The amount could be different depending on the amount of interest earned and the actual expenditures from the fund. At issue is whether the proposed executive budget will negatively impact the legislature's ability to fund the Water Court's completion of issuance and enforcement of decrees after on the ground work is completed by DNRC. To address this issue, the legislature would need to mitigate the amount of funding coming from the water adjudication fund or find another source of revenue for the fund.

Please refer to the narrative for the Water Resource Division in DNRC, which appears in Volume 5 of this analysis, for further discussion of options that the legislature could consider to mitigate the amount of funding coming from the water adjudication account or supply the account with another source of revenue.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	0	0	0	0.00%	1,531,582	1,531,582	3,063,164	83.07%
Statewide PL Adjustments	0	0	0	0.00%	93,075	92,768	185,843	5.04%
Other PL Adjustments	0	0	0	0.00%	122,747	315,782	438,529	11.89%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$0	\$0	\$0		\$1,747,404	\$1,940,132	\$3,687,536	

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments					Fiscal 2012					Fiscal 2013				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services				91,378										90,230
Inflation/Deflation				954										1,015
Fixed Costs				743										1,523
Total Statewide Present Law Adjustments	\$0	\$93,075	\$0	\$93,075						\$0	\$92,768	\$0	\$92,768	
DP 5001 - Water Court Rent Increase	0.00	0	5,782	0	5,782	0.00	0	8,802	0					8,802
DP 5002 - Water Court Additional FTE	1.50	0	116,965	0	116,965	4.16	0	306,980	0					306,980
Total Other Present Law Adjustments	1.50	\$0	\$122,747	\$0	\$122,747	4.16	\$0	\$315,782	\$0					\$315,782
Grand Total All Present Law Adjustments	1.50	\$0	\$215,822	\$0	\$215,822	4.16	\$0	\$408,550	\$0					\$408,550

Program Personal Services Narrative

Please refer to the agency narrative for a discussion of the Judicial Branch pay plan and personal services costs.

DP 5001 - Water Court Rent Increase - This decision package requests funding for a 3% per year increase in rent payments as provided in the lease agreement.

DP 5002 - Water Court Additional FTE - This decision package reflects a request to shift resources dedicated to water adjudication from the Department of Natural Resources and Conservation (DNRC) to the Water Court. The Water Court requests 4.50 FTEs and movement of authorized positions from the Department of Natural Resources and Conservation (DNRC) to the Water Court. These positions would be funded by the Water Adjudication state special revenue fund. This decision package includes: a 0.50 FTE deputy clerk in July 2011, 2.00 FTE water masters in January 2012, and 2.00 FTE water masters in August 2012, or the equivalent of 1.50 FTE in FY 2012 and 4.16 FTE in FY 2013.

LFD COMMENT

The executive budget request for the Department of Natural Resources and Conservation (DNRC) includes a similar decision package decreasing FTE assigned to water adjudication functions. The DNRC decision package proposes movement of 3.50 FTE and about \$180,000 while the Water Court request proposes transfer of 4.16 FTE and about \$424,000. The difference between the two requests equates to 0.66 FTE and about \$244,000. Legislative staff will monitor appropriation subcommittee actions on the DNRC and Water Court decision packages and notify the appropriation subcommittees if action to achieve consistency between the two programs is needed.

Further information on the DNRC decision package may be found in the Legislative Fiscal Division budget analysis of the Department of Natural Resources and Conservation in Volume 5 of this publication.

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Budget Item	Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
FTE	5.50	5.50	5.50	5.50	5.50	5.50	0.00	0.00%
Personal Services	394,105	414,426	437,593	436,652	808,531	874,245	65,714	8.13%
Operating Expenses	54,288	54,857	45,240	45,242	109,145	90,482	(18,663)	(17.10%)
Total Costs	\$448,393	\$469,283	\$482,833	\$481,894	\$917,676	\$964,727	\$47,051	5.13%
General Fund	448,393	469,283	482,833	481,894	917,676	964,727	47,051	5.13%
Total Funds	\$448,393	\$469,283	\$482,833	\$481,894	\$917,676	\$964,727	\$47,051	5.13%

Program Description

The Office of Clerk of the Supreme Court Program, pursuant to Title 3, Chapter 2, part 4, conducts the business of the court, and serves as the liaison between the public, attorneys, and the Supreme Court. By statutory authority, the clerk controls the docket and filings, manages the appellate process, and is the custodian of all legal records for the public and the court. Additionally, the clerk administers appellate mediation, maintains the official roll of Montana attorneys, and is responsible for licensing Montana's attorneys. The Clerk of Court is an elected official.

Program Highlights

Clerk of Court
Major Budget Highlights
♦ Funding for the Clerk of Court's Office increases 5.1% between the 2011 and 2013 biennia due to statewide present law adjustments

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

The proposed reduction plan for this program consists of decreasing operating expenses by \$22,420. This equates to about 41% of the program's annual operating budget. The program indicates that all operational categories including copying, office supplies, postage, records storage, telephone charges, travel, office equipment maintenance, and training would be reduced.

Funding

The following table shows program funding, by source, for the base year and for the 2013 biennium as recommended by the Governor.

Program Funding Table						
Clerk Of Court						
Program Funding	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
01000 Total General Fund	\$ 448,393	100.0%	\$ 482,833	100.0%	\$ 481,894	100.0%
01100 General Fund	448,393	100.0%	482,833	100.0%	481,894	100.0%
Grand Total	<u>\$ 448,393</u>	<u>100.0%</u>	<u>\$ 482,833</u>	<u>100.0%</u>	<u>\$ 481,894</u>	<u>100.0%</u>

This program is funded entirely by the general fund.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	448,393	448,393	896,786	92.96%	448,393	448,393	896,786	92.96%
Statewide PL Adjustments	43,878	42,939	86,817	9.00%	43,878	42,939	86,817	9.00%
Other PL Adjustments	0	0	0	0.00%	0	0	0	0.00%
New Proposals	(9,438)	(9,438)	(18,876)	(1.96%)	(9,438)	(9,438)	(18,876)	(1.96%)
Total Budget	\$482,833	\$481,894	\$964,727		\$482,833	\$481,894	\$964,727	

Present Law Adjustments

The “Present Law Adjustments” table shows the changes to the adjusted base budget proposed by the executive. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

FTE	Fiscal 2012				Fiscal 2013				
	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services				43,488					42,547
Inflation/Deflation				390					392
Total Statewide Present Law Adjustments									
	\$43,878	\$0	\$0	\$43,878		\$42,939	\$0	\$0	\$42,939
Grand Total All Present Law Adjustments									
	0.00	\$43,878	\$0	\$0	\$43,878	0.00	\$42,939	\$0	\$42,939

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

The Clerk of Court staff is part of the branch personnel plan and policies, except for recruitment, classification, and pay. Vacancy savings was achieved by leaving a position open after an employee retired. No retirements are anticipated in the next biennium. Please refer to the agency narrative for more information about the Judicial Branch pay plan.

Personal services costs for this program increase due to the statutorily provided pay increase for elected officials, employee health insurance premium increases, and the cost of a position that was vacant for a portion of the base budget year.

New Proposals

The “New Proposals” table summarizes all new proposals requested by the Governor. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals											
Program	FTE	Fiscal 2012				FTE	Fiscal 2013				Total Funds
		General Fund	State Special	Federal Special	Total Funds		General Fund	State Special	Federal Special	Total Funds	
DP 601 - Continuation of 2% reduction - 2009 Session	06	0.00	(9,438)	0	0	(9,438)	0.00	(9,438)	0	0	(9,438)
Total	0.00	(\$9,438)	\$0	\$0	(\$9,438)	0.00	(\$9,438)	\$0	\$0	(\$9,438)	

DP 601 - Continuation of 2% reduction - 2009 Session - This decision package continues the 2% reduction from the 2009 session that was taken out of personal services. This reduction is in accordance with 17-7-102(10)(b), MCA.

Agency Budget Comparison

The following table summarizes the total executive budget for the agency by year, type of expenditure, and source of funding.

Agency Budget Comparison		Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
Budget Item									
FTE		19.50	19.50	20.00	20.00	19.50	20.00	0.50	2.56%
Personal Services	1,209,250	1,272,528	1,301,458	1,301,935	2,481,778	2,603,393	121,615	4.90%	
Operating Expenses	711,072	768,164	831,876	807,256	1,479,236	1,639,132	159,896	10.81%	
Equipment & Intangible Assets	13,042	0	13,042	13,042	13,042	26,084	13,042	100.00%	
Grants	3,548,184	13,675,531	5,948,992	5,904,669	17,223,715	11,853,661	(5,370,054)	(31.18%)	
Transfers	531,723	1,218,134	1,204,639	1,204,639	1,749,857	2,409,278	659,421	37.68%	
Total Costs	\$6,013,271	\$16,934,357	\$9,300,007	\$9,231,541	\$22,947,628	\$18,531,548	(\$4,416,080)	(19.24%)	
General Fund	2,351,300	2,386,384	2,456,750	2,384,634	4,737,684	4,841,384	103,700	2.19%	
State Special	37,595	291,808	152,736	152,736	329,403	305,472	(23,931)	(7.26%)	
Federal Special	3,624,376	14,256,165	6,690,521	6,694,171	17,880,541	13,384,692	(4,495,849)	(25.14%)	
Total Funds	\$6,013,271	\$16,934,357	\$9,300,007	\$9,231,541	\$22,947,628	\$18,531,548	(\$4,416,080)	(19.24%)	

Agency Description

Mission Statement: To pro-actively contribute to public safety, crime prevention, and victim assistance with planning, policy development, and coordination of the justice systems in partnership with citizens, government, and communities.

The Montana Board of Crime Control (MBCC) was established to promote public safety by strengthening the coordination and performance of the criminal and juvenile justice systems. The MBCC is an 18-member board appointed by the Governor. The MBCC supervises the Crime Control Division (CCD), which provides financial support, technical assistance, and support services to state and local criminal justice agencies. The CCD administers a number of federal grants including anti-drug, anti-crime, victim assistance, and juvenile justice programs. The MBCC administers contracts with regional juvenile detention centers that are supported by state general fund and the misdemeanor domestic violence program supported by state special revenue. The MBCC also collects and analyzes crime data from Montana's law enforcement agencies and publishes the annual "Crime in Montana" report. MBCC is established in 2-15-2006, MCA.

The MBCC has one advisory council, the Youth Justice Council (YJC). YJC develops and implements the state's juvenile justice plan and recommends educational, training, research, prevention, diversion, treatment and rehabilitation programs.

Agency Highlights

Montana Board of Crime Control
Major Budget Highlights
<ul style="list-style-type: none"> ◆ General fund support for the agency increases 2.2% (\$103,700) when the two biennia are compared <ul style="list-style-type: none"> • Increases in general fund support due to statewide present law adjustments are offset by decreases in other present law adjustments ◆ Total funding for the agency decreases between the two biennia due to changes in federal funding levels

Legislative Action Issues
<ul style="list-style-type: none">◆ Ongoing funding (federal) is requested for a 0.50 FTE that was funded with a one-time-only appropriation for the past two biennia◆ Reductions made in accordance with 17-7-140, MCA do not reduce the agency base budget

Agency Discussion

Goals and Objectives:

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the legislature may wish to review the following:

- o Goals, objectives and year-to-date outcomes from the 2011 biennium.
- o Critical agency goals, objectives, and anticipated outcomes and their correlation to the executive's budget request for the 2013 biennium.

2011 Biennium Goals

The following provides an update of the goals monitored by the LFC during the 2011 biennium.

Goal 1 - Information technology project progress

- o Successes:
 - The contract for maintenance and improvements of the Juvenile Detention Case Management and Reporting System (JDRS) has been signed. Payment for FY 2011 had not been made at the time of the last report to the LFC due to pending work requests that were not yet completed
 - The contract for the web based statistics system for the National Incident Based Reporting System (NIBRS) is in place. The project plan is complete and development has begun. The anticipated completion date for this change is February 2011
 - Four projects funded by the National Crime Information Center (NCIC) grant (which is passed through to sub grantees) are in various stages of work

Agency Overview

General fund support for the agency increases 2.2% or \$103,700 between the 2011 and 2013 biennia, primarily due to statewide present law adjustments. Increases in the statewide present law adjustment for rent are offset by decreases included in a present law adjustment decision package. This reflects the planned movement of the agency from office space rented from a private entity to office space owned by the state. The net impact of the changes in rental related costs is a decrease in total funding of \$21,223 for the biennium.

Federal funds supporting the agency decrease between the two biennia because appropriations are adjusted to more accurately reflect the anticipated level of federal grant funds that will be received. Federal funding levels vary depending upon Congressional action impacting public safety and justice related grants, how the grants are allocated to states, and whether Montana is successful in receiving funds awarded under competitive based grant programs.

The agency budget request includes federal funding to continue a 0.50 FTE administrative support position that has been funded with one-time-only appropriations for the past two biennia. If approved the agency FTE level will be maintained at 20.00 FTE.

As an agency with 20 or fewer FTE the Board of Crime Control is exempt from the application of vacancy savings and the requirement to submit a 5% spending reduction plan. However, the agency was not exempt from the spending reductions ordered by the Governor in accordance with 17-7-140, MCA. A decision package to include reductions made under this statutory provision in the 2013 biennium budget is included in the executive budget.

Other 5% Reduction

No table is included because statute exempts agencies with 20 or fewer FTE from the requirement to submit a 5% reduction plan.

Funding

The following table shows program funding, by source, for the base year and for the 2013 biennium as recommended by the Governor.

Program Funding Table Justice System Support Service						
Program Funding	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
01000 Total General Fund	\$ 2,351,300	39.1%	\$ 2,456,750	26.4%	\$ 2,384,634	25.8%
01100 General Fund	2,351,300	39.1%	2,456,750	26.4%	2,384,634	25.8%
02000 Total State Special Funds	37,595	0.6%	152,736	1.6%	152,736	1.7%
02768 Dom Violence Intervention - Hb 476	37,595	0.6%	152,736	1.6%	152,736	1.7%
03000 Total Federal Special Funds	3,624,376	60.3%	6,690,521	71.9%	6,694,171	72.5%
03008 Juvenile Justice Council	480,138	8.0%	599,592	6.4%	599,592	6.5%
03009 Juvenile Accountability	132,152	2.2%	330,608	3.6%	330,608	3.6%
03081 Ovw Sexual Assault Services	-	-	160,000	1.7%	160,000	1.7%
03090 P Coverdell Forensic Science	104,511	1.7%	199,728	2.1%	199,728	2.2%
03093 Title V Delinquency Intervention	29,190	0.5%	84,945	0.9%	84,945	0.9%
03111 Rsat Residential Substance Abuse	35,679	0.6%	175,688	1.9%	175,688	1.9%
03182 Misc Fed Discretionary	-	-	-	-	-	-
03186 Project Safe Neighborhood	-	-	80,000	0.9%	80,000	0.9%
03188 Justice Assistance Grants	42,820	0.7%	1,608,235	17.3%	1,611,878	17.5%
03192 Crime Victim Assistance	1,208,191	20.1%	1,711,695	18.4%	1,711,699	18.5%
03200 Drug Education Assistance	239,818	4.0%	182,029	2.0%	182,029	2.0%
03201 Justice System Enhancements	53,653	0.9%	101,580	1.1%	101,583	1.1%
03266 Crime Prevention Program	-	-	-	-	-	-
03343 Criminal History Record Improv	180,000	3.0%	194,900	2.1%	194,900	2.1%
03344 Violence Against Women Act	835,050	13.9%	904,456	9.7%	904,456	9.8%
03962 Enf. Underage Drinking Laws	283,174	4.7%	357,065	3.8%	357,065	3.9%
03963 Local Law Enforcement Assist	-	-	-	-	-	-
Grand Total	\$ 6,013,271	100.0%	\$ 9,300,007	100.0%	\$ 9,231,541	100.0%

General fund supports agency operations (64%) and grants to regional juvenile detention centers (36%). Agency operations receives 73% of its support from the general fund with the balance funded primarily with federal funds. State special revenue for the misdemeanor domestic violence intervention program is administered by this agency. Federal funds administered by the agency come from seventeen different federal grants with 92% of these funds being passed through funds that go to state and local agencies. The remaining 8% of the federal funds support agency operations. The amount of administrative costs that may be recovered from federal grants varies from 0% to 10% depending upon the grant source, with the average administrative cost rate for all federal grants administered by the agency being 5.46%.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	2,351,300	2,351,300	4,702,600	97.13%	6,013,271	6,013,271	12,026,542	64.90%
Statewide PL Adjustments	165,710	163,614	329,324	6.80%	179,001	180,587	359,588	1.94%
Other PL Adjustments	(60,260)	(130,280)	(190,540)	(3.94%)	3,107,735	3,037,683	6,145,418	33.16%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$2,456,750	\$2,384,634	\$4,841,384		\$9,300,007	\$9,231,541	\$18,531,548	

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
FTE	Fiscal 2012				Fiscal 2013				Total Funds
	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	
Personal Services				71,957					72,466
Inflation/Deflation				(2,933)					(2,888)
Fixed Costs				109,977					111,009
Total Statewide Present Law Adjustments	\$165,710	\$1,169	\$12,122	\$179,001		\$163,614	\$1,169	\$15,804	\$180,587
DP 101 - Adminitistrative Support 0.50 FTE	0.50	0	0	20,251	20,251	0.50	0	0	20,219
DP 102 - Database Software Maintenance Contracts	0.00	15,600	0	21,375	36,975	0.00	15,600	0	21,375
DP 103 - Adjust Pass Through Grant Authority / Admin	0.00	0	115,130	2,788,694	2,903,824	0.00	0	115,130	2,788,694
DP 104 - Sexual Assault Services Formula Grant	0.00	0	0	160,000	160,000	0.00	0	0	160,000
DP 105 - Project Safe Neighborhood Grant	0.00	0	0	80,000	80,000	0.00	0	0	80,000
DP 106 - Office Relocation	0.00	(75,860)	(1,158)	(16,297)	(93,315)	0.00	(75,860)	(1,158)	(16,297)
DP 55140 - Other Reductions made for MCA 17-7-140	0.00	0	0	0	0	0.00	(70,020)	0	(70,020)
Total Other Present Law Adjustments	0.50	(\$60,260)	\$113,972	\$3,054,023	\$3,107,735	0.50	(\$130,280)	\$113,972	\$3,053,991
Grand Total All Present Law Adjustments	0.50	\$105,450	\$115,141	\$3,066,145	\$3,286,736	0.50	\$33,334	\$115,141	\$3,069,795
									\$3,218,270

Agency Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

- o **Pay Plan Exceptions** - None. Normally the agency starts employees new to state government at 80% of market. The agency states that succession planning by double filling key positions with a successor to transfer knowledge would be considered if the budget would permit it, and that as the agency invests in its employees through training and experience it tries to compensate them accordingly.
- o **Program Specific Obstacles** - The agency has not experienced difficulties following agency pay plan rules but the plan has been modified due to funding constraints. At this time the state financial situation has had no impact but there may be future impact on retention if MBCC cannot compensate employees competitively.

MBCC is not currently encountering obstacles but is faced with a lack of human resources and management staff time for planning and implementation.

- o **Vacancy** – The agency does not have any occupations with high turnover rates. MBCC has had minimal turnover lately, which is partially due to the economy and high unemployment. The agency recently had one vacancy and received an adequate pool of applicants for the position. The agency did not do multiple recruitments and the employment offer was not rejected.
- o **Legislatively Applied Vacancy Savings** – Agencies with 20 or fewer FTE are exempt from the application of vacancy savings.
- o **Pay/Position Changes** - Four positions were reclassified. Reclassifications and longevity increases were funded within the existing budget and vacancy savings.
- o **Retirements** - There is one employee that will be retiring in 2011 and two employees that will be eligible for retirement in the 2013 biennium. The anticipated cost for the one employee retiring in 2011 is \$13,725 and the anticipated cost for the two eligible employees in the 2013 biennium is \$51,248. There are some unknowns and it is too early to specify what steps MBCC will take to lessen the impact of retirements.

DP 101 - Administrative Support 0.50 FTE - This decision package request a 0.5 FTE administrative support position. This position has been a modified position funded on a one-time-only basis for the past two biennia. This position provides support for several grants (federal/state/foundation); assists with ongoing logistics and reporting to support the staff, board, and various councils, committees, and work groups; serves as an office receptionist; takes and transcribes minutes; and has daily front office management duties.

**LFD
ISSUE**
Shift from One-Time-Only to Ongoing

Funding this position on an ongoing basis rather than as a one-time-only appropriation adds the position to the base budget for the agency. The agency proposes funding this position with Justice Assistance Grant funds. While the state has received this grant for many years, the amount of the grant varies. Additionally, the grant limits administrative costs to no more than 10% of the grant funds. In the event federal grant funds decrease or administrative costs exceed the allowable percentage of the grant, federal funds may not be available to support the position in the future. The legislature has three options:

- o Fund the position as requested with ongoing funding that will increase the base budget
- o Fund the position as a one-time-only appropriation that will not increase the base budget
- o Do not fund the position

DP 102 - Database Software Maintenance Contracts - MBCC is required to collect and submit statistics to federal agencies in order to receive grant funds. Additionally the data is available for use by Montana policy and decision makers. Funding for maintenance contract costs above what is included in the base is requested for the following systems/software:

- o \$1,200 (federal funds) for the Automated Victims Information Database (AVID) web-based system utilized by victim services programs throughout the state to gather federally required statistical information for the STOP Violence Against Women Act (VAWA), Sexual Assault Services Program (SASP), the Victims of Crime Act (VOCA), and the Family Violence Prevention and Services programs.
- o \$12,175 (50% federal fund 50% general fund) for the National Incident Based Reporting System (NIBRS) - incident-based reporting system used by law enforcement agencies to collect and report data on crimes.
- o \$16,000 for BEYOND 20/20 (50% federal fund 50% general fund) web based analytic application that allows the user to produce reports and charts based on any NIBRS elements by simply pointing and clicking on their internet browser.
- o \$7,600 (general fund) for the Juvenile Detention Record Information System (JDRIS) used to track juvenile detention data for monitoring and reporting state compliance with the Juvenile Justice and Delinquency Prevention Act of 2002 (JJDP Act). This system is part of a case management system that is used by some of the regional juvenile detention centers. The maintenance costs for this system were funded for the current biennial as a one-time-only appropriation.

DP 103 - Adjust Pass Through Grant Authority / Admin - This decision package requests adjustments to state special and federal funding for various grants that are passed through the agency to other entities. Adjustments are requested due to changes in the estimated amounts that will be received and awarded and changes in accounting practices consistent with government accounting standards.

DP 104 - Sexual Assault Services Formula Grant - This decision package request federal funds for a new grant that was received for the first time in September 2009. The Sexual Assault Services Grant Program (SASP), funded through the Office on Violence against Women (OVW) under the Violence against Women Act (VAWA), supports services for victims of sexual assault. The agency anticipates an annual grant of around \$160,000 and is eligible to use 5% of the grant to help cover the administrative costs of the program.

DP 105 - Project Safe Neighborhood Grant - This decision package requests funding for the Project Safe Neighborhoods (PSN) grant, which is a federal initiative through the U.S. Department of Justice, Bureau of Justice Assistance. This grant is made available to the U.S. Attorney who has requested that the MBCC be the fiscal agent and administrator for the grant. Up to 10% of the grant may be used for administrative costs. This grant program is designed to reduce gun and gang crime in America.

DP 106 - Office Relocation - This decision package removes funding for rental for non-state buildings from the agency budget and adds funding for parking costs. The agency offices are scheduled to be relocated from a non-state owned building to a state owned building (the Peg Condon building) in the fall of 2010. Rental costs at the new location are estimated at \$8.906 and \$8.954 per square foot for FY 2012 and 2013, respectively. The agency leases 9,000 square feet of space at the new location.

**LFD
COMMENT**

The funding reduction in this decision package offsets increases in fixed costs changes that are included in statewide present law adjustments. When the cost of rent, grounds maintenance, and parking are included, the net change in costs to the agency is a decrease of \$21,223 for the biennium.

DP 55140 - Other Reductions made for MCA 17-7-140 - This decision package includes funding reductions occurring in FY 2011 as directed by the Governor in accordance with 17-7-140, MCA. Because these reductions occur in the second year of the biennium, they must be included in a decision package in order to be made ongoing reductions. Funding for state grants to juvenile detention centers are reduced by \$44,323 per year and agency travel and operating costs are reduced by \$25,697 per year.

**LFD
ISSUE**Base Not Reduced

Because these reductions are made in the second year of the biennium (FY 2011 and FY 2013) they do not reduce the base budget for the agency. In order to make these reductions effective as ongoing reductions to the base budget, funding for FY 2012 and future years must be reduced. The legislature may wish to:

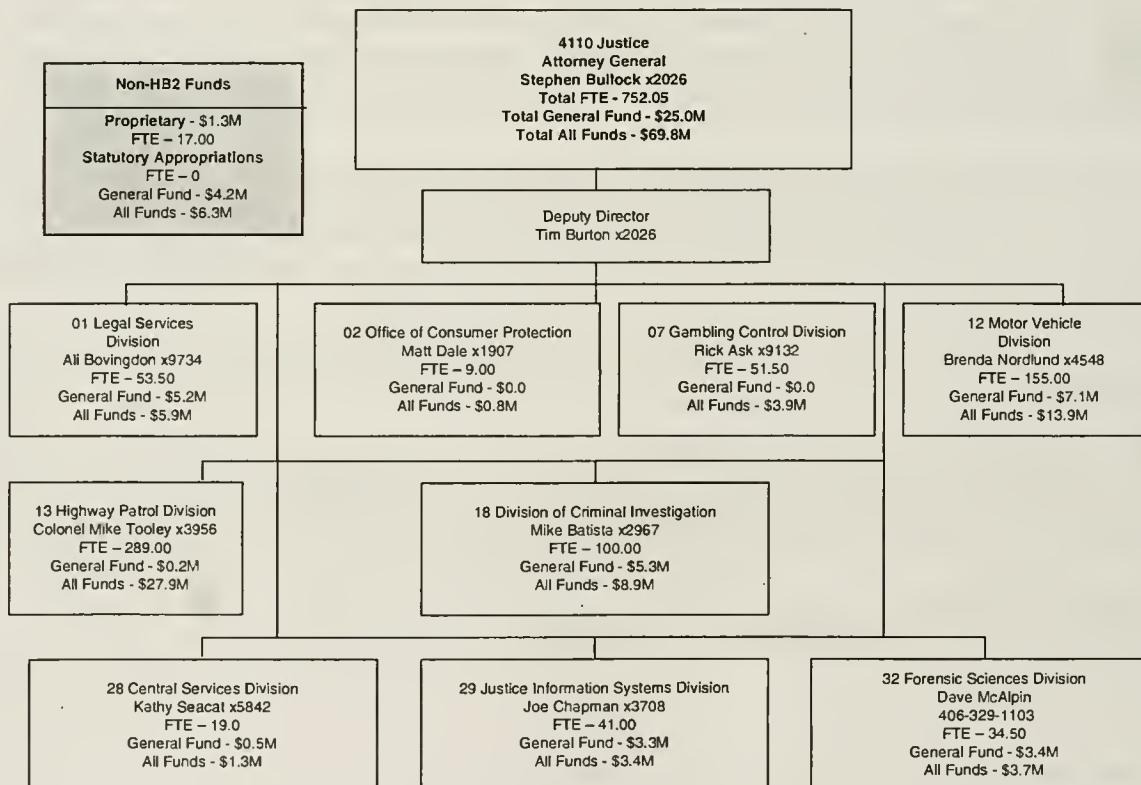
- Reduce funding for FY 2012 by a like amount so that reductions made in accordance with 17-7-140, MCA reduce the base budget
- If the total in FY 2013 is the total biennial reduction, split the cost between the two years

Agency Budget Comparison

The following table summarizes the total executive budget for the agency by year, type of expenditure, and source of funding.

Budget Item	Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
FTE	752.05	752.05	752.89	752.85	752.05	752.85	0.80	0.11%
Personal Services	45,224,471	45,355,993	49,643,781	49,683,628	90,580,464	99,327,409	8,746,945	9.66%
Operating Expenses	20,867,277	25,904,682	28,638,924	27,989,642	46,771,959	56,628,566	9,856,607	21.07%
Equipment & Intangible Assets	1,995,547	2,111,490	2,265,547	2,265,547	4,107,037	4,531,094	424,057	10.33%
Benefits & Claims	1,011,704	1,868,328	1,261,704	1,261,704	2,880,032	2,523,408	(356,624)	(12.38%)
Transfers	0	0	0	0	0	0	0	n/a
Debt Service	674,549	2,348,703	2,524,549	2,524,549	3,023,252	5,049,098	2,025,846	67.01%
Total Costs	\$69,773,548	\$77,589,196	\$84,334,505	\$83,725,070	\$147,362,744	\$168,059,575	\$20,696,831	14.04%
General Fund	24,957,152	25,938,858	27,391,940	27,391,113	50,896,010	54,783,053	3,887,043	7.64%
State Special	41,651,649	48,102,143	50,986,728	50,729,737	89,753,792	101,716,465	11,962,673	13.33%
Federal Special	1,405,530	1,760,313	1,492,068	1,493,495	3,165,843	2,985,563	(180,280)	(5.69%)
Other	0	0	2,250,000	2,250,000	0	4,500,000	4,500,000	n/a
Other	1,759,217	1,787,882	2,213,769	1,860,725	3,547,099	4,074,494	527,395	14.87%
Total Funds	\$69,773,548	\$77,589,196	\$84,334,505	\$83,725,070	\$147,362,744	\$168,059,575	\$20,696,831	14.04%

The following is the agency organizational chart, with contact information. The chart has been modified by the LFD to include the FY 2010 base budget FTE, general fund, and total funds for each program. As applicable, total agency proprietary funds and statutory appropriations, along with associated FTE, are also shown.



Agency Description

The Department of Justice, under the direction of the Attorney General, is responsible for statewide legal services and counsel, law enforcement, and public safety. The department:

- o Provides legal representation for the state and its political subdivisions in criminal appeals
- o Provides legal services and counsel for the state, county, and municipal agencies and their officials
- o Enforces Montana traffic laws and registers all motor vehicles
- o Enforces state fire safety codes and regulations
- o Assists local law enforcement agencies in bringing offenders to justice
- o Provides criminal justice officers and other qualified individuals with basic and specialized training in the field of law enforcement
- o Manages a statewide system of death investigations
- o Provides scientific analyses of specimens submitted by law enforcement officials, coroners, and state agencies
- o Maintains and disseminates criminal justice information to authorized state, local, and other entities
- o Provides uniform regulation of all gambling activities in the state of Montana
- o Enforces consumer protection laws and regulations relating to unfair and deceptive business practices
- o Assists Montana consumers in making sound decisions by providing public outreach
- o Provides statewide leadership on issues related to victims of crime and administers the Crime Victims Compensation program

Agency Highlights

Department of Justice Major Budget Highlights
<ul style="list-style-type: none"> ♦ Funding for the department increases 14.0% (\$20.7 million) between the two biennia <ul style="list-style-type: none"> • More than one half of the increase (\$12.0 million) is related to increases in state special revenue ♦ State special revenue increases 13.3% (\$12.0 million) between the two biennia due to: <ul style="list-style-type: none"> • Statewide present law adjustments • Debt payments for information technology projects (\$6.6 million) • Funding for the new insurance verification system (\$1.8 million) • Funding increase for the Criminal Justice Information System (CJIS) \$1.1 million ♦ General fund support for the department increases 7.6% (\$3.9 million) between the two biennia primarily due to statewide present law adjustments
Legislative Action Issues
<ul style="list-style-type: none"> ♦ Major LFD Issues <ul style="list-style-type: none"> • Montana Enhanced Registration and Licensing Information Network (MERLIN) titling and registration implementation difficulties including: titling and registration work backlogs, printer malfunctions, help desk response time, system response time, and allocation of revenue on the accounting system • The Montana Law Enforcement Academy (MLEA) state special revenue fund does not have sufficient income to support expenses • The legislature may wish to consider transferring funds from the consumer settlement proceeds and highway patrol recruitment and retention accounts to the general fund • The executive budget does not use the highway patrol recruitment

- and retention fund to support the entire costs of additional troopers
- The impacts of personal services reductions cannot be determined because the positions included in the personal services reduction are not specified
- ◆ Interim Committee Recommendations
 - The Legislative Finance Committee recommends that the budget starting point be the adjusted base minus 5%

Agency Discussion

Goals and Objectives:

2011 Biennium Goals

An update of the goals monitored by the LFC during the 2011 biennium is included in the narrative for the applicable division. Implementation of MERLIN the new motor vehicle system was monitored by the LFC and is discussed in more detail later in this narrative.

Agency Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

- o **Labor Market Experience** - With the economic downturn and capabilities of new on-line recruitment, the agency receives extraordinarily large hiring pools for most vacant positions. A large portion of applicants do not meet minimum qualifications. The high unemployment rate and number of people who receive unemployment benefits may partially explain these high numbers. Because salaries are frozen, a trend within the department is for employees to accept promotions with other state agencies. On a regular basis the department offers multiple recruitments for information technology positions, Montana Highway Patrol dispatchers (communication system operators), and motor vehicle licensing clerks. Approximately one out of ten jobs offered is rejected. The two main reasons for rejections are that the applicant accepted another job offer or the applicant wants more money than the department can pay.
- o **Pay Philosophy** - New hires will be placed within the existing salary ranges based upon qualifications and internal equity. To plan for succession, the department will use training assignments and proficiency agreements. FY 2011 collective bargaining agreements could propose salary adjustments to meet career objectives. As a result of legislation in 2005 and 2009, the agency has created a protective services pay matrix which addresses pay for investigators and highway patrol officers.
- o **Obstacles** - The current financial situation impacts the agency's ability to attract and retain qualified workers in several ways. First, the agency is limited in its ability to totally implement the pay plan, which promotes pay for competencies and other components. Secondly, vacancy savings requirements limit the ability to fill much needed jobs that provide services and programs to the citizens of Montana. Also, with the inability to implement pay adjustments, many qualified employees move on to other higher paying jobs elsewhere. Lastly, with the large numbers of applicants for most jobs, selection processes are slowed down. Often, by the time applications are screened, many of the top applicants have accepted employment elsewhere. Training assignments are used to allow applicants to obtain the experience necessary to meet expected entry requirements. Besides lack of funding, employee burnout is an obstacle when it comes to attracting and retaining qualified workers. When expectations force employees to work more with less, it puts a burden on the work force. The unintended consequences include more frequent absences and increases in workers compensation claims.

Agency Overview

The Department of Justice is comprised of 10 divisions, engaged in activities related to law enforcement including litigation on behalf of state and local agencies and consumers, prosecution of criminal cases, assistance in investigation

of crimes, patrol of state highways, and testing of evidence in criminal matters. The department is also responsible for motor vehicle titling and registration, driver licensing, and maintenance of the state's criminal justice information.

The department has 752.05 authorized FTE and the 2013 biennium budget proposes increasing this level by 0.80 FTE. The figure summarizes the FTE changes in the executive budget. Decreases in FTE related to a 4% decrease in general fund support for personal services are offset by requests for increased FTE for the highway patrol (9.00 FTE), executive protection (1.00 FTE), criminal justice information section (1.00 FTE), and Motor Vehicle Division (0.75 FTE). An LFD issue regarding the funding for highway patrol officers is discussed in the narrative for that program.

Item	Department of Justice FTE Changes	
	FY 2012	FY 2013
DP 1206 MVD Base Adjustments	0.75	0.75
DP 1301 Troopers on the Road	9.00	9.00
DP 1302 Executive Protection	1.00	1.00
DP 1806 Criminal Records Section	1.00	1.00
Subtotal increases	11.75	11.75
DP 55400 Legal Services	(1.50)	(1.50)
DP 55400 Motor Vehicle	(3.86)	(3.86)
DP 55400 Highway Patrol	(0.25)	(0.25)
DP 55400 Criminal Investigation	(2.25)	(2.25)
DP 55400 Centralized Services	(0.30)	(0.30)
DP 55400 Information Technology	(1.50)	(1.50)
DP 55400 Forensic Science	(1.25)	(1.25)
Subtotal decreases	(10.91)	(10.91)
Total FTE Change	0.84	0.84

**LFD
ISSUE**
Positions Not Specified

The positions included in the personal service reductions have not been specified. This lack of specificity makes it difficult to determine the potential impacts of these reductions. The legislature may wish to engage in a discussion with the agency about the impacts of these reductions upon agency operations and goals.

MERLIN – Motor Vehicle Division Automation
The Project

The Motor Vehicle Division has been in the process of re-engineering business processes and developing a new automated information technology system. This effort has been known by several names, including HB 577, HB 261, and TEAM 261. The project and new system have been named MERLIN, Montana Enhanced Registration and Licensing Information Network. The project involves implementation of a system that fully integrates motor vehicle functions including driver licensing, vehicle titling and registration, and revenue collection and reporting. This project involves the use of software developed by ARCHON technology that was to be customized and implemented in conjunction with BearingPoint. These two companies were to be the primary contractors. But, during the course of this project ARCHON technologies was purchased by 3M and BearingPoint is in the late stages of bankruptcy. Due to these changes, the department is currently contracting with 3M for some services and completing customization and upgrades in-house with agency staff.

Funding

MERLIN has been funded through \$28.5 million of debt authorized over three legislative sessions. To date \$23.2 million has been expended for the system. The 2013 biennium budget includes a request for an increase of about \$3.7 million of state special revenue for debt repayment. State special revenue is generated from three fees that are schedule to expire at a future date including:

- o \$4 of the \$8 lien filing fee (61-3-103(8)(b), MCA) – expires June 30, 2016
- o \$10 fee for issuance of a new title without the security interest or lien shown (following satisfaction or release of the security interest or lien) (61-3-103(9)(a), MCA) - expires June 30, 2018
- o \$5 from titling fees (61-3-203(1)(b), MCA) – expires June 30, 2018

Some maintenance costs have been funded with this state special revenue. However, a long term maintenance plan and funding for that plan have not been completed. Future maintenance costs and how they will be funded are currently unknown.

Status

Issues surrounding the development of this system have previously been brought to the attention of the legislature. The project has taken several years longer than originally envisioned, and the driver licensing functions are not yet completed.

In addition, since 2009 when the titling and registration portion of the system went live, several difficulties were experienced, particularly by county treasurers. Efforts to stabilize this portion of the system have largely focused on the following five items:

1. Titling and registration backlogs
2. Computer processing response time
3. Help desk response and communication between the department and county treasurers
4. Point of sale printer failure
5. Distribution of revenue on the state accounting records and reconciliation of accounting records

The Title and Registration Bureau experienced delays and backlogs in processing transactions. At one point titling transactions were backlogged, creating difficulties for those selling or buying vehicles. The department indicates that title changes are currently being processed within one week of receipt at the Title and Registration Bureau office and that fluctuations in turnaround time are now attributable to staffing levels rather than the automated system.

The MERLIN system operates on the state mainframe with transactions being routed via electronic means from county treasurer offices to the mainframe in Helena. This contrast with the previous system that used computer hardware generally housed at the local level. Functioning of fiber optic cable, telecommunications networks, and volume of transactions as well as other factors can impact the speed at which data is processed. Additionally, the unique nature of each county's computer configuration and internet service provider mean that there is not a "one size fits all" solution. The department, working with the Department of Administration and other stakeholders, has worked to identify and resolve these performance issues. The department continues to monitor issues of response time that are unique to Flathead County and indicates that other response time issues have not been experienced for several months.

Much difficulty was experienced in the help desk or communications area between the department and county treasurers. The volume of calls and limited number of department staff created difficulty for county treasurers needing immediate assistance and working to resolve issues while customers waited for transactions to process. The department took several steps to improve access and is engaging in monthly teleconferences with a committee of county treasurers to discuss operations and emerging issues. The department reports improvement in this area as enhancements and fixes have been implemented, knowledge has increased, and system function has stabilized.

**LFD
ISSUE**County Treasurer Request

At the April 2010 meeting of the Law and Justice Interim Committee, a representative of the County Treasurer's Association presented two requests to the interim committee. Those requests were:

- o Do not reduce department staff because the help desk needs to be manned every day
- o Do not implement the insurance verification system until the MERLIN system is completely up and running

The executive budget request for the Motor Vehicle Division includes decision packages related to both of these items. The executive proposes reducing general fund support for personal services by 4% but the specific positions included in this reduction have not been identified. Because the positions have not been identified, it is difficult to determine whether or not the MERLIN help desk function will be impacted.

**LFD
ISSUE CONT.**

The executive budget also requests state special revenue funding to develop and implement the insurance verification system prior to the statutory deadline of July 1, 2011. Delaying implementation of the system would impact the availability of insurance coverage information for law enforcement and other users. However, if the system is implemented but not functioning correctly, vehicle registration could be delayed, creating difficulties with customers served by the counties. In order to delay implementation of this system, legislation would be needed.

Given the concerns expressed on behalf of the County Treasurer's Association the legislature may wish to discuss with the agency the current status of these items and impact of complying with the County Treasurer Association request.

The point of sale (laser) printers that were deployed as part of the system did not function as expected and location of replacement printers was problematic. Because these printers actually print the decal that is affixed to the vehicle their operation is critical. The contractor providing the printers replaced all printers with a more suitable thermal printer at no cost to the department. Additionally, steps have been taken to have replacement supplies available in Helena and Missoula and from the contractor via overnight shipping. A decision package in the executive budget includes funding for network connections to the state system for these printers.

Difficulties with the interface between MERLIN and the state accounting system led to the recording of some revenues into a holding account. Lack of distribution of these revenues on the accounting records meant that information about the amount of revenues collected by source were unavailable. It took several months of dedicated work for department staff to reconcile and allocate revenues on the accounting records. Additionally, the department worked to reconcile accounting records with county treasurers, who must balance each day. At this time, with the exception of some smaller amounts that must be reconciled with counties, these activities have been completed. Revenue is now being allocated on a timely basis and daily reconciliation of the system interfaces is being completed.

The Law and Justice Interim Committee (LJIC) monitored and heard public comment related to the implementation of the MERLIN system. The LJIC requested and received periodic updates on the titling and registration backlog and implementation of this portion of the system. The LJIC also requested that an audit of MERLIN be completed. The Legislative Audit Division is in the early stages of work on this audit.

Driver Licensing

The driver licensing portion of the system remains to be completed. The department recently authorized the contractor (3M) to perform a gap analysis and will be reviewing changes needed to update the proposal to current statutory and business requirements. Once this analysis has been completed the department will work to determine the extent of any redesign and assess whether to pursue implementation of the planned technology solution or some other alternative. The department has indicated that additional funding for completion of the system, including driver licensing, will not be requested.

REAL ID

The REAL ID Act of 2006 (Public Law 109-13) was signed into law in May 2005. This law contains several provisions, but this narrative will deal only with the provisions of the portion referred to as the REAL ID Act of 2005. This act provides for regulations for state issued driver's licenses and identification cards. Specifically, the act requires that in order for state driver licenses or identification cards to be used for an official federal purpose, the cards must meet minimum standards, including standards related to verification of documents establishing identity, birth date, social security number, name, address, the person's lawful status in the United States, security of department of motor vehicle facilities and databases, information that must appear on the driver's license or identification card, document and record retention, and several others. The act defines "official purposes" as including but not limited to:

- o Accessing federal facilities
- o Boarding federally regulated commercial aircraft
- o Entering nuclear power plants
- o Any other purposes that the Secretary of Homeland Security shall determine

During the 2007 session the legislature adopted and the Governor approved legislation directing the Department of Justice not to take action to implement requirements of the REAL ID Act of 2005. Specifically, 61-5-128 MCA states:

"(1) The legislature finds that the enactment into law by the U.S. Congress of the REAL ID Act of 2005, as part of Public Law 109-13, is inimical to the security and well-being of the people of Montana, will cause unneeded expense and inconvenience to those people, and was adopted by the U.S. Congress in violation of the principles of federalism contained in the 10th amendment to the U.S. constitution (2) The state of Montana will not participate in the implementation of the REAL ID Act of 2005. The department, including the motor vehicle division of the department, is directed not to implement the provisions of the REAL ID Act of 2005 and to report to the governor any attempt by agencies or agents of the U.S. department of homeland security to secure the implementation of the REAL ID Act of 2005 through the operations of that division and department."

Thus, as Montana statutes currently exist, the Department of Justice is prohibited from implementing the provisions of the REAL ID Act of 2005.

Efforts to repeal the federal REAL ID Act have not come to fruition and the act continues to be current federal law. The Department of Homeland Security continues to allow the use of valid state issued driver license and identification cards for the federal purposes listed above beyond the scheduled date that states were to demonstrate material compliance with the act. The next milestone required by the REAL ID Act is full compliance by states by May 10, 2011. Montana has not taken the actions necessary to achieve full compliance by this date.

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following table lists the components of the 5% reduction plans for this agency. If the component is included in the executive budget the specific decision package is listed.

Total 5% Reduction Plan Identified by Agencies, By Division Included and Not Included in Executive Budget 2013 Biennium					
Program/DP Number/Description	FTE	General Fund	% Of Total	State Special Revenue	% Of Total
Legal Services Division					
<i>Included in Executive Budget</i>					
55400 4% Personal Services Reduction	1.50	\$148,762	11.9%	0	0.0%
<i>Not Included in Executive Budget</i>					
Reduce Major Litigation		150,000	12.0%	0	0.0%
Total Legal Services Division		\$298,762	24.0%	\$0	0.0%
Office of Consumer Protection					
<i>Not Included in Executive Budget</i>					
Reduce Benefit Claim Payments		0	0.0%	77,050	12.0%
Gambling Control Division					
<i>Not Included in Executive Budget</i>					
Delay Gambling Investigations/Inspect.		0	0.0%	139,782	21.8%
Motor Vehicle Division					
<i>Included in Executive Budget</i>					
55400 4% Personal Services Reduction	3.86	\$156,764	12.6%	0	0.0%
<i>Not Included in Executive Budget</i>					
Delay VIVS Rolling Reissue		0	0.0%	96,471	10.1%
Reduce Driver Licensing Office & Svc		31,888	2.6%	40,760	6.4%
Subtotal Not Included in Executive Budget		\$31,888	2.6%	\$105,431	16.5%
Total Motor Vehicle Division		\$188,652	15.1%	\$105,431	16.5%
Montana Highway Patrol					
<i>Included in Executive Budget</i>					
55400 4% Personal Services Reduction	0.25	\$12,425	1.0%	0	0.0%
<i>Not Included in Executive Budget</i>					
Reduce Level of Executive Protection		108,179	8.7%	0	0.0%
Reduce Level of Uniformed Officers		0	0.0%	211,512	33.0%
Subtotal Not Included in Executive Budget		\$108,179	8.7%	\$211,512	33.0%
Total Montana Highway Patrol		\$120,604	9.7%	\$211,512	33.0%
Division of Criminal Investigation					
<i>Included in Executive Budget</i>					
55400 4% Personal Services Reduction	2.25	\$161,956	13.0%	0	0.0%
<i>Not Included in Executive Budget</i>					
MCSART Program Reduction		96,056			
CRISS Program Reduction		0	0.0%	\$37,000	5.8%
MLEA Program Reduction		0	0.0%	70,000	10.9%
Subtotal Not Included in Executive Budget		\$96,056	7.7%	\$107,000	16.7%
Total Division of Criminal Investigation		\$258,012	20.7%	\$107,000	16.7%
Centralized Services Division					
<i>Included in Executive Budget</i>					
55400 4% Personal Services Reduction	0.30	\$19,173	1.5%	0	0.0%
Information Technology Division					
<i>Included in Executive Budget</i>					
55400 4% Personal Services Reduction	1.50	\$103,738	8.3%	0	0.0%
<i>Not Included in Executive Budget</i>					
Extend Computer Replacement Cycle		62,724	5.0%	0	0.0%
Total Information Technology Division		\$166,462	13.3%	0	0.0%
Forensic Science Division (Lab)					
<i>Included in Executive Budget</i>					
55400 4% Personal Services Reduction	1.25	\$109,526	8.8%	0	0.0%
<i>Not Included in Executive Budget</i>					
Do Not Renew Equipment Lease		86,190	6.9%	0	0.0%
Total Information Technology Division		\$195,716	15.7%	0	0.0%
Total Reduction Plan					
<i>Included in Executive Budget</i>					
		\$712,344	57.1%	0	0.0%
<i>Not Included in Executive Budget</i>					
		\$35,037	42.9%	640,775	100.0%
Total Agency Reduction Plan	10.91	\$1,247,381	100.0%	\$640,775	100.0%

The 5% reduction plan for the agency provides for general fund reductions totaling \$1.2 million. Of this amount \$712,000 is a 4% reduction in general fund support for personal services included in the executive budget. The impacts of these reductions cannot be determined because the specific positions that would be eliminated have not been determined.

The largest remaining general fund reductions include reduction in funding for major litigation, executive protection, and the Montana Child Sexual Assault Response Team (MCSART). The agency indicates that a reduction in funding for major litigation would have no impact because if costs exceeded the funding level a supplemental appropriation would be requested.

Funding

The following table summarizes funding for the agency, by program and source, as recommended by the Governor. Funding for each program is discussed in detail in the individual program narratives that follow.

Agency Program	Total Agency Funding 2013 Biennium Budget						Total %
	General Fund	State Spec.	Fed Spec.	Proprietary	Grand Total		
01 Legal Services Division	\$ 11,463,990	\$ 419,440	\$ 1,246,361	\$ -	\$ 13,129,791		8.03%
02 Office Of Consumer Protection	\$ -	\$ 2,221,035	\$ -	\$ -	\$ 2,221,035		1.36%
07 Gambling Control Division	\$ -	\$ 6,107,889	\$ -	\$ 2,306,197	\$ 8,414,086		5.14%
12 Motor Vehicle Division	\$ 15,236,453	\$ 21,477,009	\$ -	\$ 1,579,886	\$ 38,293,348		23.41%
13 Highway Patrol Division	\$ 1,228,735	\$ 61,624,467	\$ -	\$ -	\$ 62,853,202		38.43%
18 Div. Of Criminal Investigation	\$ 11,351,624	\$ 7,347,321	\$ 1,734,195	\$ -	\$ 20,433,140		12.49%
28 Central Services Division	\$ 1,047,420	\$ 1,598,199	\$ -	\$ 158,776	\$ 2,804,395		1.71%
29 Information Technology Service	\$ 7,107,101	\$ 267,350	\$ 5,007	\$ 29,635	\$ 7,409,093		4.53%
32 Forensic Science Division	\$ 7,347,730	\$ 653,755	\$ -	\$ -	\$ 8,001,485		4.89%
Grand Total	\$ 54,783,053	\$ 101,716,465	\$ 2,985,563	\$ 4,074,494	\$ 163,559,575		100.00%

Funding for the department varies by division and function. General fund supports the Forensic Science Division, executive protection function, several functions within the Division of Criminal Investigation, 60% of the cost of the motor vehicle titling and registration and driver licensing, and some legal services. State special revenue from consumer settlement proceeds supports the Office of Consumer Protection, highway state special and the recruitment and retention fund support the highway patrol, gambling license fees support Gambling Control, and motor vehicle fees support the debt payment for the development and implementation of a computer system. Federal funds combined with general fund support Medicaid fraud investigation and the child protection unit within the legal division. Proprietary funds support liquor licensing functions and legal services provided under contract to other agencies.

Statutory Appropriations

The following table shows the total statutory appropriations associated with this agency. Because statutory appropriations do not require reauthorization each biennium, they do not appear in HB 2 and are not routinely examined by the legislature. The table is provided so that the legislature can get a more complete picture of agency operations and associated policy.

As appropriate, LFD staff has segregated the statutory appropriations into two general categories: 1) those where the agency primarily acts in an administrative capacity and the appropriations consequently do not relate directly to agency operations; and 2) those that have a more direct bearing on the mission and operations of the agency.

Statutory Appropriations Department of Justice					
Purpose	MCA #	Fund Source	Fiscal 2010	Fiscal 2012	Fiscal 2013
<i>Direct Bearing on Agency Operations</i>					
Certificate of Public Advantage	50-4-623	General Fund	\$463	\$0	\$0
Certificate of Public Advantage	50-4-623	State Spec Revenue	429	0	0
Enforcement of Drug Laws	44-12-206	State Spec Revenue	65,040	129,128	129,140
Crime Victims Compensation	53-9-113	State Spec Revenue	0	200,000	200,000
Enforcement of Drug Laws	44-12-206	Federal Spec Revenue	0	125,000	125,000
<i>Administrative Agency</i>					
Video Gambling Machine Permits	23-5-612	State Spec Revenue	1,985,472	1,985,472	1,985,472
Video Gambling Local Dist.	23-5-306	State Spec Revenue	11,500	11,500	11,500
Highway Patrol Retirement	16-6-404	General Fund	1,613,891	1,868,933	1,868,933
State Contribution County Attorneys	7-4-2502	General Fund	2,616,772	2,852,106	2,892,107

Elected Official Proposals

As an elected official the Attorney General may present to the legislature for consideration items not included in the executive budget. At the time of this writing which, if any, proposals the Attorney General wishes to present to the legislature were undetermined. Thus, no elected official proposals are discussed in this narrative.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	24,957,152	24,957,152	49,914,304	91.11%	69,773,548	69,773,548	139,547,096	83.03%
Statewide PL Adjustments	2,195,479	2,171,084	4,366,563	7.97%	4,559,185	4,546,430	9,105,615	5.42%
Other PL Adjustments	949,890	975,976	1,925,866	3.52%	10,712,353	10,118,191	20,830,544	12.39%
New Proposals	(710,581)	(713,099)	(1,423,680)	(2.60%)	(710,581)	(713,099)	(1,423,680)	(0.85%)
Total Budget	\$27,391,940	\$27,391,113	\$54,783,053		\$84,334,505	\$83,725,070	\$168,059,575	

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison		Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
Budget Item									
FTE		53.50	53.50	52.00	52.00	53.50	52.00	(1.50)	(2.80%)
Personal Services	3,789,288	4,228,226	4,085,527	4,083,007	8,017,514	8,168,534	151,020	1.88%	
Operating Expenses	1,209,458	1,126,215	1,547,431	1,544,518	2,335,673	3,091,949	756,276	32.38%	
Benefits & Claims	934,654	928,328	934,654	934,654	1,862,982	1,869,308	6,326	0.34%	
Total Costs	\$5,933,400	\$6,282,769	\$6,567,612	\$6,562,179	\$12,216,169	\$13,129,791	\$913,622	7.48%	
General Fund	5,160,413	5,328,135	5,734,439	5,729,551	10,488,548	11,463,990	975,442	9.30%	
State Special	190,815	381,026	209,853	209,587	571,841	419,440	(152,401)	(26.65%)	
Federal Special	582,172	573,608	623,320	623,041	1,155,780	1,246,361	90,581	7.84%	
Total Funds	\$5,933,400	\$6,282,769	\$6,567,612	\$6,562,179	\$12,216,169	\$13,129,791	\$913,622	7.48%	

Program Description

The Legal Services Division (LSD) provides:

- o Legal research and analysis for the Attorney General
- o Legal counsel for state government officials, bureaus, and boards
- o Legal assistance to local governments and Indian tribes
- o Legal assistance, training, and support for county prosecutors
- o Assistance to victims of crime, including compensation payments

The Prosecution Services Bureau assists local county attorneys by providing training and assisting in the prosecution of complex criminal cases, particularly homicide cases. The bureau prosecutes cases where the county attorney has a conflict of interest, and drug, workers' compensation, and Medicaid fraud cases. The bureau also investigates complaints against county attorneys.

The Appellate Services Bureau handles appeals of criminal matters, including death penalty cases, and represents the state in federal court when constitutional challenges are made to a criminal conviction.

The Civil Services Bureau defends the state in constitutional challenges and coordinates appeals of civil cases that involve the state. This bureau also provides legal assistance to state and local governments on matters involving Indian jurisdiction and federal reserved water rights.

The Child Protection Unit handles child abuse and neglect cases around Montana. The unit has offices in Bozeman, Billings, Great Falls, and Miles City and focuses on resolving the legal status of children who have been in foster care for more than 15 out of the most recent 22 months.

The Office of Victim Services (OVS) works to elevate the status of victims and their rights and responds to the needs of crime victims in Montana. It serves as a central reference point for victims of crime, administers the Crime Victim Compensation Program and the Forensic Rape Examination Payment Program, and offers information and referral services. OVS staffs the Domestic Violence Fatality Review Commission and provides training and information for those who work with victims, including law enforcement, victim advocates, probation and parole workers, and local community organizations.

Program Highlights

Legal Services Division Major Budget Highlights
<ul style="list-style-type: none"> ◆ Funding for the division increases 7.5% or \$914,000 between the two biennia ◆ General fund support for the division increases 9.3% or \$975,000 due to: <ul style="list-style-type: none"> • Statewide present law adjustments and a request to continue a one time only appropriation for major litigation that are partially offset by a new proposal reducing personal services by 4%
Major LFD Issues
<ul style="list-style-type: none"> ◆ Positions to be included in the personal services reduction are not specified ◆ Given the difficulty of predicting major litigation costs, the legislature may wish to restrict this appropriation so that unexpended funds revert to the general fund

Program Narrative

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

The 5% reduction plan for this program proposes two items impacting the general fund. Expenditures would be reduced through a 4% decrease in personal service costs and a decrease in funding for major litigation. The personal services reduction, which equates to funding for 1.50 FTE, is included in the executive budget.

The agency submitted plan states that the reduction in funding for major litigation of \$150,000 would have no impact since a supplemental appropriation would have to be sought if major litigation costs exceeded available appropriations for that purpose. While the department may view the risk as minor, the legislature has control over whether a supplemental appropriation is provided. In addition, the risk still remains to the state that fund balance would have to be used to fund any supplemental request. While major litigation costs can be difficult to predict, the legislature may wish to discuss with the agency what management actions can be taken to limit or control the timing of expenditures. Information about major litigation and major cases that are currently active is included in the discussion of the decision package requesting funding for this purpose.

Funding

The following table shows program funding, by source, for the base year and for the 2013 biennium as recommended by the Governor.

Program Funding Table Legal Services Division						
Program Funding	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
01000 Total General Fund	\$ 5,160,413	87.0%	\$ 5,734,439	87.3%	\$ 5,729,551	87.3%
01100 General Fund	5,160,413	87.0%	5,734,439	87.3%	5,729,551	87.3%
02000 Total State Special Funds	190,815	3.2%	209,853	3.2%	209,587	3.2%
02074 Gambling License Fee Account	(200)	0.0%	-	-	-	-
02422 Highways Special Revenue	3,524	0.1%	3,658	0.1%	3,649	0.1%
02937 Justice State Special Misc	187,491	3.2%	206,195	3.1%	205,938	3.1%
03000 Total Federal Special Funds	582,172	9.8%	623,320	9.5%	623,041	9.5%
03169 Federal Crime Victims Benefits	347,838	5.9%	365,610	5.6%	365,653	5.6%
03801 Dept Of Justice-Misc Grants	234,334	3.9%	257,710	3.9%	257,388	3.9%
Grand Total	\$ 5,933,400	100.0%	\$ 6,567,612	100.0%	\$ 6,562,179	100.0%

The division receives the majority of its funding from the general fund (87%). Each of the various functions within the division has a unique funding source. Attorneys are supported primarily by general fund with state special revenue from highway special revenue, tobacco settlement funds, and other funds supporting specific activities. Additionally, work for the Reserved Water Rights Compact Commission is funded by the Department of Natural Resources and Conservation; prosecution of hunting violations is funded by the Department of Fish, Wildlife and Parks; and prosecution of worker's compensation violations is funded by the State Fund. The cost of major litigation is supported entirely by the general fund. Funding for assistance to crime victims comes from the general fund and federal grants.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	5,160,413	5,160,413	10,320,826	90.03%	5,933,400	5,933,400	11,866,800	90.38%
Statewide PL Adjustments	422,788	417,750	840,538	7.33%	482,974	477,391	960,365	7.31%
Other PL Adjustments	300,000	300,000	600,000	5.23%	300,000	300,000	600,000	4.57%
New Proposals	(148,762)	(148,612)	(297,374)	(2.59%)	(148,762)	(148,612)	(297,374)	(2.26%)
Total Budget	\$5,734,439	\$5,729,551	\$11,463,990		\$6,567,612	\$6,562,179	\$13,129,791	

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments					Fiscal 2013								
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds				
Personal Services				616,006					613,250				
Vacancy Savings				(171,005)					(170,919)				
Inflation/Deflation				(11,291)					(11,076)				
Fixed Costs				49,264					46,136				
Total Statewide Present Law Adjustments	\$422,788	\$19,038	\$41,148	\$482,974		\$417,750	\$18,772	\$40,869	\$477,391				
				DP 55012 - Major Litigation (Biennial)									
0.00	300,000	0	0	300,000	0.00	300,000	0	0	300,000				
Total Other Present Law Adjustments	0.00	\$300,000	\$0	\$300,000	0.00	\$300,000	\$0	\$0	\$300,000				
				Grand Total All Present Law Adjustments									
				0.00	\$722,788	\$19,038	\$41,148	\$782,974	0.00	\$717,750	\$18,772	\$40,869	\$777,391

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

- **Pay Plan Exceptions** - None
- **Program Specific Obstacles** - The division has difficulty retaining lawyers due to promotion opportunities with other local, state, and federal agencies and the private sector. Applicant pools for legal secretaries are low due to scarcity in the profession and the Helena area. The division uses training assignments to provide a new employee with the experience necessary to meet required minimum qualifications.
- **Vacancy** - The department experiences turnover in lawyer and legal secretary positions. Both are paid higher salaries in the private sector and state agencies that can afford to pay more. The 2009 Legislature approved a market adjustment for lawyers within the agency. The agency continues to focus on the many benefits state employees have from first day of hire and promotes flexible work schedules. Vacancies increase employee workloads, overtime, and necessitated reprioritization of legal projects.
- **Legislatively Applied Vacancy Savings** - A number of positions were held open extensively prior to recruitment and selection.
- **Pay/Position Changes** – Lawyers received a market adjustment that was funded by the 2009 Legislature. Some personal staff received increases funded within the existing budget.

The statewide present law adjustment for personal services increases due to fully funding vacant positions (\$271,000), pay increases (\$207,000), and increased health insurance costs (\$100,000).

DP 55012 - Major Litigation (Biennial) - This decision package requests a \$600,000 biennial appropriation for expenditures related to major litigation.

**LFD
ISSUE**Restrict Appropriation

Total expenditures for major litigation in FY 2010 were about \$768,000. Of this amount, almost \$468,000 remained in the base budget. Because the \$300,000 balance was from a one-time-only appropriation it was removed from the base budget for budget development purposes. A majority of the FY 2010 expenditures were for two cases, the Yellowstone River Compact (\$425,000) and the Columbia River (\$126,000). Between FY 2000 and 2010, expenditures for major litigation have varied from \$7,700 to over \$1.0 million and for the past five years (FY 2006 – 2010) have exceeded \$600,000 per year.

Given the variable nature of these costs and the potential for costs to decrease once a complex case is resolved, the legislature may wish to provide all funding for major litigation as a restricted appropriation. Use of a restricted appropriation would limit the agency's ability to use these funds for purposes other than major litigation and will result in any unexpended funds reverting to the general fund.

New Proposals

The "New Proposals" table summarizes all new proposals requested by the Governor. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals									
Program	FTE	Fiscal 2012				Fiscal 2013			
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special
DP 55400 - 4% Personal Services Reduction LSD									
01	(1.50)	(148,762)	0	0	(148,762)	(1.50)	(148,612)	0	0
Total	(1.50)	(\$148,762)	\$0	\$0	(\$148,762)	(1.50)	(\$148,612)	\$0	\$0
<u>DP 55400 - 4% Personal Services Reduction LSD</u>									
- The executive recommends a 4% reduction of personal service funded with general fund.									

**LFD
ISSUE**Program Impact Unknown

The agency has not identified the positions that will be included in the 4% personal services reduction. Without identification of the types of positions that would be eliminated it is not possible to assess the impact on the program of these reductions.

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison									
Budget Item	Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change	
FTE	9.00	9.00	9.00	9.00	9.00	9.00	0.00	0.00%	
Personal Services	553,540	543,868	551,426	550,853	1,097,408	1,102,279	4,871	0.44%	
Operating Expenses	215,490	264,929	232,750	231,906	480,419	464,656	(15,763)	(3.28%)	
Benefits & Claims	77,050	940,000	327,050	327,050	1,017,050	654,100	(362,950)	(35.69%)	
Total Costs	\$846,080	\$1,748,797	\$1,111,226	\$1,109,809	\$2,594,877	\$2,221,035	(\$373,842)	(14.41%)	
State Special	846,080	1,748,797	1,111,226	1,109,809	2,594,877	2,221,035	(373,842)	(14.41%)	
Total Funds	\$846,080	\$1,748,797	\$1,111,226	\$1,109,809	\$2,594,877	\$2,221,035	(\$373,842)	(14.41%)	

Program Description

The Office of Consumer Protection (OCP) responds to consumer complaints and enforces Montana's consumer protection laws and regulations relating to unfair and deceptive business practices, including: "bait and switch," false claims, changing a contract after a sale, abusive arbitration, debt collection misconduct, door-to-door sales, telemarketing including administering Montana's do-not-call list, car and truck sales and repair including the New Vehicle Warranty Act (or Lemon Law) violations, and antitrust issues including price fixing, monopoly abuse, and restraint of trade.

OCP assists victims of identity theft and administers the state's Security Freeze Program. It provides extensive public education about consumer and telemarketing fraud and identity theft to Montana consumer groups, senior citizen organizations, law enforcement agencies, and businesses.

Program Highlights

Office of Consumer Protection
Major Budget Highlights
<ul style="list-style-type: none"> ◆ Funding decreases between the two biennia due to decreased funding for benefits and claims payments
Major LFD Issues
<ul style="list-style-type: none"> ◆ The FY 2010 ending fund balance in the consumer settlement proceeds account was \$2.7 million, and the legislature may wish to transfer a portion of the balance to the general fund

Program Narrative

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

The plan for this program proposes a state special revenue reduction of about \$77,000 in claims paid to beneficiaries each year.

The conditions of the settlement agreement at the time litigation is resolved may require that the agency make payments to those affected by the issues that were the subject of the litigation. The agency indicates that if a settlement agreement is received that requires payment the agency would request a budget amendment.

Funding

The following table summarizes funding for the agency, by program and source, as recommended by the Governor. Funding for each program is discussed in detail in the individual program narratives that follow.

Program Funding Table						
Office Of Consumer Protection						
Program Funding	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
02000 Total State Special Funds	\$ 846,080	100.0%	\$ 1,111,226	100.0%	\$ 1,109,809	100.0%
02140 Consumer Education Settlement	<u>846,080</u>	<u>100.0%</u>	<u>1,111,226</u>	<u>100.0%</u>	<u>1,109,809</u>	<u>100.0%</u>
Grand Total	<u>\$ 846,080</u>	<u>100.0%</u>	<u>\$ 1,111,226</u>	<u>100.0%</u>	<u>\$ 1,109,809</u>	<u>100.0%</u>

The program is funded entirely with state special revenue from the settlement of consumer protection litigation.

LFD ISSUE

Balance Transfer to General Fund

The figure illustrates projected expenditures, revenues, and fund balance for the consumer settlement proceeds account. Expenses to operate the program, not including the distribution of benefits, are projected to be about \$800,000 per year. Revenues are projected to be about \$1.2 million leaving an excess of revenue over expenses before distribution of proceeds of about \$400,000 per year. The FY 2010 ending fund balance for the account was \$2.7 million, while the projected ending fund balance for FY 2011 through FY 2013 varies between \$2.2 and \$2.4 million depending upon the year, or over twice the annual operating expenses.

While sections 30-14,143 and 30-14-226, MCA contain provisions related to this state special revenue account stating that "any excess civil fines, costs, or fees must be transferred to the general fund", no funds have been transferred. Because the statute does not specify the timing of such a transfer or define what is considered excess, compliance with the statute is a matter of interpretation. Legislation (SB 189) to clarify these statutory provisions was introduced but did not pass during the 2009 session.

Consumer Settlement State Special Revenue Fund 02140				
Item	Actual FY 2010	Estimated FY 2011	Requested FY 2012	Requested FY 2014
Beginning Balance	\$2,586,633	\$2,721,026	\$2,174,277	\$2,262,385
Expenses:				
Office of Consumer Protection - Operations	772,354	758,797	784,176	782,759
Office of Consumer Protection: Benefits (settlement distribution)	77,049	990,000	327,050	327,050
Centralized Services Div.	<u>14,546</u>	<u>13,732</u>	<u>16,446</u>	<u>15,622</u>
Total Expenses	\$863,949	\$1,762,529	\$1,127,672	\$1,125,431
Revenue:				
Fines/Forfeits	966,296	1,188,000	1,188,000	1,188,000
All other	<u>27,781</u>	<u>27,780</u>	<u>27,780</u>	<u>27,780</u>
Total Revenue	\$994,077	\$1,215,780	\$1,215,780	\$1,215,780
Revenue Less Disbursements.	130,128	(546,749)	88,108	90,349
Fund Balance Adjustment	<u>4,265</u>			
Ending Balance	\$2,721,026	\$2,174,277	\$2,262,385	\$2,352,734

Given that the ending fund balance exceeds twice the annual operating costs of the program, the legislature may wish to request legislation to:

- o Clarify the statutory provisions related to the transfer of funds from this account to the general fund
- o Implement a one-time transfer to the general fund
- o Deposit consumer settlement proceeds in the general fund and fund the Office of Consumer Protection from the general fund

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category									
Budget Item	General Fund				Total Funds				Percent of Budget
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	
Base Budget	0	0	0	0.00%	846,080	846,080	1,692,160	76.19%	
Statewide PL Adjustments	0	0	0	0.00%	15,146	13,729	28,875	1.30%	
Other PL Adjustments	0	0	0	0.00%	250,000	250,000	500,000	22.51%	
New Proposals	0	0	0	0.00%	0	0	0	0.00%	
Total Budget	\$0	\$0	\$0		\$1,111,226	\$1,109,809	\$2,221,035		

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
FTE	Fiscal 2012				Fiscal 2013				Total Funds
	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	
Personal Services				20,861					20,265
Vacancy Savings				(22,975)					(22,952)
Inflation/Deflation				167					173
Fixed Costs				17,093					16,243
Total Statewide Present Law Adjustments	\$0	\$15,146	\$0	\$15,146		\$0	\$13,729	\$0	\$13,729
DP 201 - Consumer Protection Settlement Funds	0.00	0	250,000	0	250,000	0.00	0	250,000	0
Total Other Present Law Adjustments	0.00	\$0	\$250,000	\$0	\$250,000	0.00	\$0	\$250,000	\$0
Grand Total All Present Law Adjustments	0.00	\$0	\$265,146	\$0	\$265,146	0.00	\$0	\$263,729	\$0

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

- o **Pay Plan Exceptions** - None
- o **Program Specific Obstacles** - None
- o **Vacancy** – N/A
- o **Legislatively Applied Vacancy Savings** - A position was left open to meet the 7% vacancy savings requirement.
- o **Pay/Position Changes** – Two adjustments were provided with existing funds. A lawyer position was moved to market and an increase was provided to personal staff.
- o **Retirements** - None

DP 201 - Consumer Protection Settlement Funds - This decision package requests funds to distribute consumer settlements. Settlement funds are benefits distributed to consumers for negotiated agreements with offending companies. Benefits paid in FY 2010 were \$77,050.

Proprietary Rates

Proprietary Program Description

Agency Legal Services – Fund 06500

Proposed Budget

The 2013 biennium budget report on internal service and enterprise funds for fund 06500, Agency Legal Services, shows the financial information for the fund from FY 2010 through FY 2013. The report is provided as submitted by the executive but the LFD has edited and reconfigured the figure for clarity.

2013 Biennium Report on Internal Service and Enterprise Funds						
Fund	Fund Name	Agency #	Program Name			
6500	Agency Legal Services	4110	Agency Legal Services			
			Actual FY10	Budgeted FY11	Budgeted FY12	Budgeted FY13
Operating Revenues:						
Fee revenue			1,346,998	1,600,000	1,625,000	1,625,000
			-	-	-	-
			-	-	-	-
			-	-	-	-
Net Fee Revenue			1,346,998	1,600,000	1,625,000	1,625,000
Investment Earnings			-	-	-	-
Securities Lending Income			-	-	-	-
Premiums			-	-	-	-
Other Operating Revenues			66	-	-	-
Total Operating Revenue			1,347,064	1,600,000	1,625,000	1,625,000
Operating Expenses:						
Personal Services			1,119,011	1,265,383	1,333,476	1,334,249
Other Operating Expenses			225,084	210,875	254,581	252,623
			-	-	-	-
Total Operating Expenses			1,344,018	1,476,258	1,588,057	1,586,872
Total Net Assets - July 1 - As Restated			(160,317)	(191,151)	(67,409)	(112,792)
Prior Period Adjustments			-	-	-	-
Cumulative effect of account change			-	-	-	-
Total Net Assets - July 1 - As Restated			(160,317)	(191,151)	(67,409)	(112,792)
Net Assets- June 30			(191,151)	(67,409)	(112,792)	(74,664)
60 days of expenses						
(Total Operating Expenses divided by 6)			224,003	246,043	264,676	264,479
Requested Rates for Internal Service Funds						
Fee/Rate Information for Legislative Action						
			Actual FY 10	Actual FY 11	Budgeted FY 12	Budgeted FY 13
Fee Group A						
Attorney rate per hour			\$ 93.00	\$ 93.00	\$ 93.00	\$ 93.00
Investigators rate per hour			\$ 53.00	\$ 53.00	\$ 53.00	\$ 53.00

Program Description

The Agency Legal Services Bureau (ALS) provides legal, hearing examiner, and investigative services to state agency clients on a contract basis. ALS attorneys and investigators bill clients for their services, case-related, and incidental costs. The division consists of 17.00 FTE funded from the revenues generated. The customers served are state agencies, boards, and commissions that have entered into contracts with ALS.

The Attorney General is the legal officer for the state per Article VI, Section 4(4), of the Montana Constitution. 2-4-611(2), MCA provides that state agencies may request from the Attorney General's Office a hearing examiner in a contested case. State agencies have the option to use in-house or private counsel and investigators instead of ALS.

Executive Order 5-93 provides that agencies must receive approval from the Legal Services Review Committee (made up of a representative of the Attorney General, Budget Director, and the Governor's Chief Legal Counsel) prior to contracting for outside legal services.

Program Narrative

Expenses

The primary costs for the division are personal services and operating costs. Factors that influence costs include the state pay plan, the ability to recruit and retain staff, and general inflationary pressures that increase costs for items such as utilities, rent, supplies, and equipment.

Revenues

Revenues are generated by fees charged to other state agencies for services provided. The source of funds used by agencies to pay ALS varies by agency and program.

Funding Sources

This program provides services to other state agencies that are funded by the general fund, state special revenue, and federal funds. Funding for the payment of services varies dependent upon agency.

Present Law Adjustments

The only present law adjustments for this fund are statewide present law adjustments.

Proprietary Rate Explanation

Although expenditures are almost equal to revenues for the next biennium, the agency requests continuation of the rates at the current level of \$93.00 per hour for attorneys and \$53.00 per hour for paralegals. Due to the current financial situation a rate increase to cover expenditure increases and working capital needs is not requested by the executive. The fund has historically operated with a negative fund balance and will continue to operate with a negative fund balance. Prior to FY 2010, general fund loans were used to assist the program in meeting its financial obligations.

**LFD
ISSUE**

Revenue Projection

The report on the Agency Legal Services fund presented above anticipates a revenue increase of about \$250,000 between FY 2010 and FY 2011 and that the increased level of revenue will be maintained through the 2013 biennium. For the past five years, revenues have averaged about \$1.3 million per year or about \$300,000 less than is projected for FY 2011 through FY 2013. Since a rate increase is not requested, any increase in revenues would be related to completion and billing for an increased amount of work. If revenues are not realized at the projected level a reduction in expenses will be needed to avoid increasing the deficit situation in which the fund operates. Reductions in expenses would most likely be a reduction in personal services costs, which comprise more than 80% of the funds expenses.

If the legislature wishes to impact the deficit situation of this fund, it may wish to consider:

- Approving a rate increase as a means to generate increased revenues
- Suggesting that the department propose cost reductions for discussion with the legislature to reduce costs to a level that eliminates the deficit situation given that historic revenue levels have been about \$1.3 million per year

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Budget Item	Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
FTE	51.50	51.50	51.50	51.50	51.50	51.50	0.00	0.00%
Personal Services	3,023,961	3,066,427	3,277,874	3,280,338	6,090,388	6,558,212	467,824	7.68%
Operating Expenses	754,355	858,772	870,721	823,433	1,613,127	1,694,154	81,027	5.02%
Equipment & Intangible Assets	79,900	132,158	79,900	79,900	212,058	159,800	(52,258)	(24.64%)
Debt Service	960	3,723	960	960	4,683	1,920	(2,763)	(59.00%)
Total Costs	\$3,859,176	\$4,061,080	\$4,229,455	\$4,184,631	\$7,920,256	\$8,414,086	\$493,830	6.24%
State Special	2,795,632	2,987,224	3,077,109	3,030,780	5,782,856	6,107,889	325,033	5.62%
Other	1,063,544	1,073,856	1,152,346	1,153,851	2,137,400	2,306,197	168,797	7.90%
Total Funds	\$3,859,176	\$4,061,080	\$4,229,455	\$4,184,631	\$7,920,256	\$8,414,086	\$493,830	6.24%

Program Description

The Gambling Control Division (GCD) was established by the 1989 Legislature to regulate the gambling industry in Montana. The division has criminal justice authority and conducts routine field inspections and investigations related to gambling activities. In addition to collecting and distributing licensing fees for gambling machines and activities, the division collects the gambling tax assessed on the net proceeds of gambling activities. It conducts investigations related to alcoholic beverage licensing and tobacco enforcement. An appointed Gaming Advisory Council of nine members advises the Attorney General to ensure uniform statewide regulation of gambling activities. The Gambling Control Program is mandated by state law (23-5-110, MCA).

Program Highlights

Gambling Control Division Major Budget Highlights
<ul style="list-style-type: none"> Funding for this division increases 6.2% (\$494,000) between the 2011 and 2013 biennia due primarily to increases in statewide present law adjustments

Program Narrative

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

The program proposes saving \$139,782 state special revenue by delaying gambling and liquor license background investigations and inspections and criminal investigations. Reductions in travel costs and vehicles purchases are proposed. Delays in licensing would delay applicants' ability to operate gaming and liquor establishments until licensing is completed. Currently license investigations average 60 to 90 days. Operators in rural areas could be more impacted due to reductions in travel. This reduction is not included in the executive budget.

Funding

The following table summarizes funding for the agency, by program and source, as recommended by the Governor. Funding for each program is discussed in detail in the individual program narratives that follow.

Program Funding Table Gambling Control Division						
Program Funding	Base	% of Base	Budget	% of Budget	Budget	% of Budget
	FY 2010	FY 2010	FY 2012	FY 2012	FY 2013	FY 2013
02000 Total State Special Funds	\$ 2,795,632	72.4%	\$ 3,077,109	72.8%	\$ 3,030,780	72.4%
02074 Gambling License Fee Account	2,679,376	69.4%	2,951,206	69.8%	2,904,722	69.4%
02790 6901-Statewide Tobacco Settlement	116,256	3.0%	125,903	3.0%	126,058	3.0%
06000 Total Proprietary Funds	1,063,544	27.6%	1,152,346	27.2%	1,153,851	27.6%
06005 Liquor Division	1,063,544	27.6%	1,152,346	27.2%	1,153,851	27.6%
Grand Total	\$ 3,859,176	100.0%	\$ 4,229,455	100.0%	\$ 4,184,631	100.0%

Gambling control activities are supported primarily by state special revenue generated from gambling licensing fees. Liquor licensing fees (a proprietary fund) support division functions related to liquor licensing. A small amount of funds from the tobacco settlement state special revenue account support activities related to enforcement of settlement provisions.

**LFD
COMMENT**

The figure illustrates the expenses, revenues, and fund balance projected for the state special revenue fund that provides the bulk of the support for this division. Revenue for the account comes primarily from licensing fees while the primary expenses charged to the account are for the operation of the division. Revenue to the account has been on a declining trend since FY 2008 and is anticipated to bottom out in FY 2010, with gradual increases in revenue anticipated in FY 2011 through FY 2013. Factors that may be contributing to this decline include general economic conditions and the implementation of the Clean Indoor Air Act that prohibits smoking in most public places. Factors that may decrease gambling may also lead to a decrease in the number of licensed machines and associated licensing fee revenue.

Gambling License Fee Account State Special Revenue Fund 02074				
Item	Actual FY 2010	Estimated FY 2011	Requested FY 2012	Requested FY 2014
Beginning Balance	\$1,265,636	\$1,187,268	\$1,177,843	\$1,395,385
Disbursements:				
Legal Services Division	(200)			
Gambling Control Division	4,682,325	5,035,434	4,936,678	4,890,194
Centralized Services Division	56,446	53,818	63,733	60,539
Information Technology Division	56,407	57,173	62,047	61,996
Total Expenses	\$4,794,978	\$5,146,425	\$5,062,458	\$5,012,729
Total Revenues (per revenue estimates)	4,799,367	5,137,000	5,280,000	5,432,000
Revenue Less Disbursements.	\$4,389	(\$9,425)	\$217,542	\$419,271
Fund Balance Adjustment	(82,757)			
Ending Balance	\$1,187,268	\$1,177,843	\$1,395,385	\$1,814,656

Based upon the projected 2013 biennium budget, if revenues rebound as predicted, revenues will exceed expenses and begin contributing to an increase in the fund balance. The program will likely need to use a portion of existing fund balance reserves in FY 2011 prior to returning to a positive financial position in FY 2012. The agency indicates it is currently managing position vacancies and other expenses to maintain expenses within revenues. Additionally, the division indicated it would work with the Gaming Advisory Council regarding a possible fee increase if revenues do not recover. A statutory change would be needed to change licensing fees.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category				General Fund				Total Funds			
Budget Item	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget			
Base Budget	0	0	0	0.00%	3,859,176	3,859,176	7,718,352	91.73%			
Statewide PL Adjustments	0	0	0	0.00%	298,184	300,169	598,353	7.11%			
Other PL Adjustments	0	0	0	0.00%	72,095	25,286	97,381	1.16%			
New Proposals	0	0	0	0.00%	0	0	0	0.00%			
Total Budget	\$0	\$0	\$0		\$4,229,455	\$4,184,631	\$8,414,086				

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
Fiscal 2012					Fiscal 2013				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services				386,325					388,893
Vacancy Savings				(136,412)					(136,516)
Inflation/Deflation				5,738					7,482
Fixed Costs				42,533					40,310
Total Statewide Present Law Adjustments	\$0	\$216,010		\$298,184*			\$217,448		\$300,169*
DP 701 - IT Web-Entry System Enhancements - OTO\Bien -	0.00	0	50,000	0	50,000	0.00	0	0	0
DP 702 - GCD Base Adjustments	0.00	0	15,467	0	22,095*	0.00	0	17,700	0
Total Other Present Law Adjustments	0.00	\$0	\$65,467		\$72,095*	0.00	\$0	\$17,700	\$0
Grand Total All Present Law Adjustments	0.00	\$0	\$281,477		\$370,279*	0.00	\$0	\$235,148	\$0
* "Total Funds" amount includes funding from sources other than General Fund, State Special, or Federal Special (i.e. Proprietary).									

* "Total Funds" amount includes funding from sources other than General Fund, State Special, or Federal Special (i.e. Proprietary).

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

- **Pay Plan Exceptions** – None. The program has not experienced any difficulties in following the agency's pay plan rules.
- **Program Specific Obstacles** - The program has some jobs that are difficult to fill due to the specialized nature of the program and skills required. A few examples include lab testers, investigators, and auditors.
- **Vacancy** - The program does not have a high turnover rate. The few vacancies experienced resulted in increased overtime and workloads.
- **Legislatively Applied Vacancy Savings** - The department held a number of positions open extensively prior to recruitment and selection.
- **Pay/Position Changes** – A number of pay changes were provided utilizing existing funds, including: market adjustments for an administrative specialist, reclassification of compliance specialist and electronic inspectors, movement to another pay matrix for crime investigators and law enforcement managers, retention of an electronic engineer, and pay change for (Attorney General) personal staff. A total of 32 positions received pay increases.

- **Retirements** - The division anticipates three employees will be eligible for retirement in the 2013 biennium. The anticipated compensated absence liability to the division will be \$114,837. The division will lose seasoned managers and to minimize the impact is offering both cross training and professional development opportunities to existing staff.

The statewide present law adjustment for personal services increases due to fully funding vacant positions (\$193,000), pay adjustments (\$74,500), and health insurance costs (\$73,500).

DP 701 - IT Web-Entry System Enhancements - OTO\Bien - This decision package requests a one-time-only, biennial appropriation to enhance the web entry system. The division would work with its customers to identify ways to improve the functionality and convenience of the system. The improvements may require changes to the database (GenTax) or web interface (MII). This system is being used for online reporting of 99% of video gambling machines.

DP 702 - GCD Base Adjustments - This decision package requests funding for increased office rent and overtime.

**LFD
COMMENT**

This decision package requests \$4,000 per year of overtime costs. This is slightly less than the overtime costs incurred in FY 2010 the base budget year. The balance of the funding is for increases in office rent for eight locations. The annual increase in rental cost varies between 3% and 6% depending upon location.

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison		Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
Budget Item									
FTE	155.00	155.00	151.89	151.85	155.00	151.85	(3.15)	(2.03%)	
Personal Services	6,144,044	4,944,263	6,464,007	6,464,926	11,088,307	12,928,933	1,840,626	16.60%	
Operating Expenses	7,197,410	11,749,000	12,676,396	12,327,461	18,946,410	25,003,857	6,057,447	31.97%	
Equipment & Intangible Assets	37,269	33,149	57,269	57,269	70,418	114,538	44,120	62.65%	
Transfers	0	0	0	0	0	0	0	n/a	
Debt Service	523,010	2,191,700	2,373,010	2,373,010	2,714,710	4,746,020	2,031,310	74.83%	
Total Costs	\$13,901,733	\$18,918,112	\$21,570,682	\$21,222,666	\$32,819,845	\$42,793,348	\$9,973,503	30.39%	
General Fund	7,066,503	7,515,382	7,617,623	7,618,830	14,581,885	15,236,453	654,568	4.49%	
State Special	6,224,978	10,774,452	10,737,888	10,739,121	16,999,430	21,477,009	4,477,579	26.34%	
Other	0	0	2,250,000	2,250,000	0	4,500,000	4,500,000	n/a	
Other	610,252	628,278	965,171	614,715	1,238,530	1,579,886	341,356	27.56%	
Total Funds	\$13,901,733	\$18,918,112	\$21,570,682	\$21,222,666	\$32,819,845	\$42,793,348	\$9,973,503	30.39%	

Program Description

The Motor Vehicle Division (MVD) under provision of Title 61 and Title 23, MCA and federal statutes (such as the Commercial Motor Vehicle Safety Act of 1986, child support regulations, Anti Car Theft Act of 1992, and Odometer Disclosure Act)) is responsible for:

- o Examination and licensure of all drivers
- o Verification of identification
- o Creation and maintenance of permanent driver and motor vehicle records
- o Titling and registration of all vehicles including boats, snowmobiles, and ATVs
- o Inspection and verification of vehicle identification numbers
- o Licensure and compliance control of motor vehicle dealers and manufacturers
- o Providing motor voter registration

Program Highlights

Motor Vehicle Division	
Major Budget Highlights	
<ul style="list-style-type: none"> ◆ Total funding for the division increases almost \$10 million or 30.4% between the two biennia <ul style="list-style-type: none"> • State special revenue funding of information technology projects is the primary driver, increasing funding by about \$9 million between the two biennia • General fund support for the division increases about \$655,000 or 4.5% between the two biennia due to statewide present law adjustments and a decision package requesting funding for base adjustments that are partially offset by a 4% reduction in personal services 	
Major LFD Issues	
<ul style="list-style-type: none"> ◆ Multiple items representing different policy decision points are included in one decision package ◆ Positions included in the personal services reduction have not been specified 	

Program Narrative

Goals and Objectives

The Legislative Finance Committee selected the following goals to monitor during the current interim.

- o Goal 1 - Electronic disposition transfer, reporting convictions from courts to the Motor Vehicle Division
 - Successes:
 - o An increased number of transactions are being processed with fewer staff
 - o The time frame for reporting convictions has decreased from about 45 days to 16 days
 - Challenges:
 - o The initial match rate has not reached the 80% level and it appears that this standard may not be attainable
- o Goal 2 – Montana Enhanced Registration and Licensing Information Network (MERLIN) project
 - Successes:
 - o Stabilization of the second phase of the system will be complete when a long term support plan for the point of sale decal printers is complete
 - Challenges:
 - o Several implementation issues were experienced
 - o Completion of the final phase (driver licensing) of the system

For discussion of the MERLIN system please refer to the agency narrative section of this analysis.

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

This program proposes three items as part of its 5% reduction plan:

- o A 4% reduction in personal services equating to savings of \$156,764 in general fund (included in the executive budget)
- o Reduction in driver's licensing offices and services equating to savings of \$31,888 in general fund and \$40,760 in state special revenue
- o Delayed implementation of the Vehicle Insurance Verification System (VIVS) equating to savings of \$64,671 state special revenue

Potential impacts of the second reduction may include reduction in services to those seeking driver's licensing, increasing response time to the public and delays in issuance of licenses. The division estimates that the combined impact of the first two items would equate to a reduction of 5.00 FTE or slightly more than 3% of the division's current 155.00 authorized FTE. This level of FTE reduction would result in the closure of one or two driver licensing offices and an increased backlog of work. The highways state special revenue account that is used in combination with general fund to support most division functions is not subject to the requirement for a 5% reduction plan, but the agency has included those funds in its plan. Because these funds are matched with general fund to support the program, loss of general fund would result in the loss of state special revenue unless the entire cost is shifted from the general fund to state special revenue.

The VIVS is required by 61-6-157, MCA and per 61-6-157(i) must be operational by July 1, 2011. The system is funded by state special revenue generated by an insurance verification fee and license plate fees. This state special revenue account also supports the purchase of license plates manufactured by Montana Correctional Enterprises. Potential impacts of the delay in implementation include delays in availability of information to law enforcement agencies. Additionally, a statutory change would be needed to delay the implementation.

Funding

The following table summarizes funding for the agency, by program and source, as recommended by the Governor. Funding for each program is discussed in detail in the individual program narratives that follow.

Program Funding Table Motor Vehicle Division						
Program Funding	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
01000 Total General Fund	\$ 7,066,503	50.8%	\$ 7,617,623	35.3%	\$ 7,618,830	35.9%
01100 General Fund	7,066,503	50.8%	7,617,623	35.3%	7,618,830	35.9%
02000 Total State Special Funds	6,224,978	44.8%	10,737,888	49.8%	10,739,121	50.6%
02200 Salvage Vehicles	-	-	-	-	-	-
02225 Mvd Inform Tech System Hb577	64,517	0.5%	141,292	0.7%	141,292	0.7%
02422 Highways Special Revenue	4,716,537	33.9%	5,213,192	24.2%	5,215,174	24.6%
02456 Insurance Verification Sb508	985,431	7.1%	3,151,686	14.6%	3,150,937	14.8%
02798 Mvd It System - Hb261	458,493	3.3%	2,231,718	10.3%	2,231,718	10.5%
06000 Total Proprietary Funds	610,252	4.4%	965,171	4.5%	614,715	2.9%
06080 Mvd/State Information Portal	7,373	0.1%	57,432	0.3%	7,426	0.0%
06083 Mvd Electronic Commerce	602,879	4.3%	907,739	4.2%	607,289	2.9%
05000 Total	-	-	2,250,000	10.4%	2,250,000	10.6%
05113 Motor Vehicle Division Hb 90	-	-	2,250,000	10.4%	2,250,000	10.6%
Grand Total	\$ 13,901,733	100.0%	\$ 21,570,682	100.0%	\$ 21,222,666	100.0%

Driver's licensing and vehicle titling and registration functions are supported by the general fund (60%) and highways state special revenue fund (40%). State special revenues collected for fees support payment of debt that was incurred for the development and implementation of the computer system known as the Montana Enhanced Registration and Licensing Information Network (MERLIN). Proprietary funds collected from fees charged for e-government services support online web based services that may be used by the public.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	7,066,503	7,066,503	14,133,006	92.76%	13,901,733	13,901,733	27,803,466	64.97%
Statewide PL Adjustments	458,756	447,175	905,931	5.95%	803,364	782,819	1,586,183	3.71%
Other PL Adjustments	247,365	261,979	509,344	3.34%	7,020,586	6,694,941	13,715,527	32.05%
New Proposals	(155,001)	(156,827)	(311,828)	(2.05%)	(155,001)	(156,827)	(311,828)	(0.73%)
Total Budget	\$7,617,623	\$7,618,830	\$15,236,453		\$21,570,682	\$21,222,666	\$42,793,348	

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
	Fiscal 2012					Fiscal 2013				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					667,406					670,309
Vacancy Savings					(272,461)					(272,573)
Inflation/Deflation					18,787					20,533
Fixed Costs					389,632					364,550
Total Statewide Present Law Adjustments	\$458,756	\$339,689		\$0	\$803,364*		\$447,175	\$331,181	\$0	\$782,819*
DP 1201 - IT MERLIN	0.00	0	0	0	2,250,000*	0.00	0	0	0	2,250,000*
DP 1202 - IT Electronic Commerce	0.00	0	0	0	350,000*	0.00	0	0	0	0
DP 1203 - IT VIVS Online Motor Vehicle Liability Insur	0.00	0	486,170	0	486,170	0.00	0	486,170	0	486,170
DP 1204 - IT Just in Time License Plate Production Contract	0.00	0	1,672,140	0	1,672,140	0.00	0	1,672,140	0	1,672,140
DP 1205 - MVD Debt Payments Due to BOI - BIEN	0.00	0	1,850,000	0	1,850,000	0.00	0	1,850,000	0	1,850,000
DP 1206 - MVD Base Adjustments	0.75	247,365	164,911	0	412,276	0.75	261,979	174,652	0	436,631
Total Other Present Law Adjustments	0.75	\$247,365	\$4,173,221	\$0	\$7,020,586*	0.75	\$261,979	\$4,182,962	\$0	\$6,694,941*
Grand Total All Present Law Adjustments	0.75	\$706,121	\$4,512,910	\$0	\$7,823,950*	0.75	\$709,154	\$4,514,143	\$0	\$7,477,760*

* "Total Funds" amount includes funding from sources other than General Fund, State Special, or Federal Special (i.e. Proprietary).

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

- o **Pay Plan Exceptions** - None
- o **Program Specific Obstacles** - There is significant turnover in the entry and lower level licensing and permit technicians within the Motor Vehicle Division (MVD). Although some of the turnover can be attributed to upward mobility and career path options within the program, much of the turnover at these levels is for higher paying jobs. While we have been experiencing larger applicant pools, many are either not qualified or cannot pass required background checks. Often qualified workers stay with MVD for the benefit package offered by the State of Montana. MVD employees are based across Montana making recruitment and retention extremely difficult in some areas. The agency pay plan does offer situational and geographical discretion tools for managers.
- o **Vacancy** –The division has significant turnover in the entry and lower level licensing and permit technicians. Turnover is often caused by internal promotions or job satisfaction issues. Driver license and permit technicians deal extensively with the public, increasing their exposure to conflict and stress. These vacancies result in increased workload for other employees.
- o **Legislatively Applied Vacancy Savings** - We held a number of positions open extensively prior to recruitment and selection.
- o **Pay/Position Changes** - The division made the following pay adjustments within existing funding: movement toward market for administrative clerks, license permit clerks, license permit technicians, mail clerk, and license examiners; pay increase for Attorney General personal staff; and for retention purposes for a technical writer. Twelve positions received pay increases.

- o **Retirements** - The division anticipates six employees will be eligible for retirement in the 2013 biennium. The anticipated compensated absence liability to the division is \$122,869. The division will lose seasoned managers and to minimize the impact is offering both cross training and professional development opportunities to existing staff.

The statewide adjustment for personal services increases primarily due to fully funding vacant positions (\$491,000) and increases in health insurance costs (\$209,000).

DP 1201 - IT MERLIN - This decision package requests \$4.5 million over the 2013 biennium in state special revenue to fund the completion of the Montana Enhanced Registration and Licensing Information System (MERLIN). The Archon Driver Solution (ADS) phase, which automates the driver licensing stations across the state, is estimated to be complete in FY 2013.

**LFD
COMMENT**

For a discussion of Merlin and related issues, please see the agency summary section of this analysis.

DP 1202 - IT Electronic Commerce - This decision package requests a biennial appropriation for the development, operation, and enhancement of electronic commerce (e-government) applications related to motor vehicle titling, registration and records, and driver licensing and records.

**LFD
COMMENT**

The department indicates that it is currently working on or considering the following applications:

- o Web based license plate ordering
- o Credit and debit card payment for driver licensing and vehicle titling and registration
- o Enhanced Title and Registration Bureau customer services through use of a virtual call center or chat functionality

DP 1203 - IT VIVS Online Motor Vehicle Liability Insurance - This decision package requests funding to annualize expenditures associated with the implementation of the online Motor Vehicle Liability Insurance Verification System (VIVS). 61-6-157(3) (i), MCA, requires that VIVS be installed and operational no later than July 1, 2011. The actual cost for the maintenance of VIVS is currently unknown but is estimated to be \$0.50 per year for each light vehicle, heavy truck, bus, and motor home registered in Montana.

**LFD
COMMENT**

The department has included a reduction of \$64,671 or 13% from this decision package as part of its 5% reduction plan. The department states a reduction in funding will delay the project but has not provided specific information about the duration of the delay.

DP 1204 - IT Just in Time License Plate Production Contract - This decision package includes an increase of state special revenue authority in the amount of \$3,344,280 for the 2013 biennium to annualize operating expenditures associated with the implementation of the contract for license plate production.

DP 1205 - MVD Debt Payments Due to BOI - BIEN - This decision package requests a biennial appropriation to fund debt payments associated with the Motor Vehicle System, Phase One, Titling System project (MVS1) and the Motor Vehicle System, Phase Two, Vehicle Registration and Driver Licensing/Driver Control System project (MVS2).

**LFD
COMMENT**

The motor vehicle system is more commonly referred to as MERLIN. For additional information, please refer to the agency summary section of this analysis.

DP 1206 - MVD Base Adjustments - This decision package requests funding for multiple items such as increases in rent, information technology charges, vehicles, and postage. The items requested in this decision package are summarized in the figure below.

**LFD
COMMENT**
Split Among Policy Decision Points

The multiple items included in this decision package present as one decision items that the legislature may wish to act on as multiple decision points. The table groups the items included in this decision package into three categories of increase for legislative consideration. The three groups presented are:

1. Items related to maintenance of ongoing operations - rent (both an inflationary increase and increased space), vehicle replacement, and staffing cost
2. Items related to federal mandates associated in this case with commercial driver licensing - contracted services, postage, and online verification of social security numbers
3. An item related to the implementation of the new motor vehicle computer system (MERLIN) - charges for network connections for the point of sale printers

The funding included in the decision package is split among these items on a ratio of about 25% each for ongoing operations and federal mandates, and about 50% for MERLIN related costs.

Item/Category	Summary of Motor Vehicle Division Decision Package			
	FY 2012	%	FY 2013	%
<u>Maintain Ongoing Operations</u>				
Rent - Titling and Registration	\$3,055	0.7%	\$3,055	0.7%
Rent - Driver Licensing	41,907	10.2%	57,593	13.2%
Vehicle replacement	20,000	4.9%	20,000	4.6%
0.75 FTE Driver Records/Control	25,019	6.1%	24,973	5.7%
Overtime - Driver Licensing	5,000	1.2%	5,000	1.1%
Subtotal	\$94,981	23.0%	\$110,621	25.3%
<u>Federal Mandate/Commercial Driver Licensing</u>				
Contracted letter services (medical certificates)	15,590	3.8%	20,787	4.8%
Contracted services (change licenses from 8 to 5 year term)	51,540	12.5%	51,540	11.8%
SSN online verification	2,000	0.5%	2,000	0.5%
Postage	10,553	2.6%	14,071	3.2%
National Motor Vehicle Technology Information System	30,000	7.3%	\$30,000	6.9%
Subtotal	\$109,683	26.6%	\$118,398	20.2%
<u>Motor Vehicle System (MERLIN) Related</u>				
Printer Network Connections	\$207,612	50.4%	\$207,612	47.5%
Total	\$412,276	100.0%	\$436,631	100.0%
General Fund	\$247,366	60.0%	\$261,979	60.0%
Highways State Special Revenue	164,910	40.0%	174,652	40.0%
	\$412,276	100.0%	\$436,631	100.0%

To provide increased clarity to the decision making process, the legislature may wish to act on this decision package as if it were three separate decision packages and direct staff to split the decision package when entering the results of legislative action into the budgeting system.

New Proposals

The “New Proposals” table summarizes all new proposals requested by the Governor. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

Program	FTE	Fiscal 2012			Total Funds	FTE	Fiscal 2013			Total Funds
		General Fund	State Special	Federal Special			General Fund	State Special	Federal Special	
DP 55400 - 4% Personal Services Reduction MVD										
12	(3.86)	(155,001)	0	0	(155,001)	(3.90)	(156,827)	0	0	(156,827)
Total	(3.86)	(\$155,001)	\$0	\$0	(\$155,001)	(3.90)	(\$156,827)	\$0	\$0	(\$156,827)

DP 55400 - 4% Personal Services Reduction MVD - This decision packages reduces general fund support for personal services by 4%.

**LFD
ISSUE**Program Impact Unknown

The agency has not identified the positions that will be included in the 4% personal services reduction. Without identification of the types of positions that would be eliminated it is not possible to assess the impact on the program of these reductions.

Reduction of staff in this division may be of particular concern given the implementation difficulties experienced with MERLIN and the agency plan to implement the driver licensing portion of the system in the 2012 biennium. For more information about MERLIN please refer to the agency narrative.

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison									
Budget Item	Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change	
FTE	289.00	289.00	298.75	298.75	289.00	298.75	9.75	3.37%	
Personal Services	20,329,636	20,489,755	22,937,307	22,973,161	40,819,391	45,910,468	5,091,077	12.47%	
Operating Expenses	5,923,460	6,213,638	6,964,816	6,760,858	12,137,098	13,725,674	1,588,576	13.09%	
Equipment & Intangible Assets	1,608,530	1,499,424	1,608,530	1,608,530	3,107,954	3,217,060	109,106	3.51%	
Total Costs	\$27,861,626	\$28,202,817	\$31,510,653	\$31,342,549	\$56,064,443	\$62,853,202	\$6,788,759	12.11%	
General Fund	194,236	197,402	613,482	615,253	391,638	1,228,735	837,097	213.74%	
State Special	27,667,390	28,005,415	30,897,171	30,727,296	55,672,805	61,624,467	5,951,662	10.69%	
Total Funds	\$27,861,626	\$28,202,817	\$31,510,653	\$31,342,549	\$56,064,443	\$62,853,202	\$6,788,759	12.11%	

Program Description

The Montana Highway Patrol (MHP) is responsible for patrolling the highways of Montana, enforcing traffic laws, and investigating traffic crashes. The patrol gives assistance and information to motorists and first aid to those injured in traffic crashes, transports blood and medical supplies in emergency situations, and assists other law enforcement agencies when requested. The patrol provides 24-hour-a-day, seven-day-a-week communication and radio dispatch for the Highway Patrol and other state agencies.

Program Highlights

Montana Highway Patrol Major Budget Highlights	
<ul style="list-style-type: none"> ◆ Total funding for the division increases 12.1% (\$6.8 million) between the two biennia, primarily due to statewide present law adjustments, present law base adjustments, the addition of 9.00 FTE troopers, and funding for information technology ◆ General fund, supporting the executive protection function, more than triples between the two biennia (\$837,000 increase) <ul style="list-style-type: none"> • The majority of this increase (\$550,575) is included in statewide present law adjustments 	
Major LFD Issues	
<ul style="list-style-type: none"> ◆ The agency did not use the recruitment and retention fund to support the entire cost of additional officers ◆ The recruitment and retention fund FY 2010 ending fund balance was \$7.5 million ◆ General fund support for the program rises from less than \$400,000 in the 2011 biennium to more than \$1.2 million in the 2013 biennium ◆ Positions included in the personal services reduction have not been specified 	

Program Narrative

Goals and Objectives

The Legislative Finance Committee selected the following goals to monitor during the current interim.

- o Goal 1 – Improve MHP availability – installation of equipment and concept of “patrol car is their office” (Smart Cop)
 - Successes - based upon comparison of the first eight months of 2010 to 2009
 - o Crashes have dropped almost 19%
 - o Fatal crashes have dropped almost 23%
 - Challenges:
 - o Patrol availability has remained nearly constant

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

The 5% reduction plan for this division proposes a reduction in general fund expenditures through a 4% reduction in personal services (included in the executive budget) for executive protection. Executive protection is the only function in the program that is funded with the general fund. The division plan also proposes savings in state special revenue (highways) through a reduction of an unspecified number of uniformed officers. However, the account that supports these costs is exempt from the 5% plan requirement.

Potential impacts in the reduction of uniformed officers include:

- o Fewer officers on the road
- o Increased accidents
- o Increased fatalities

Funding

The following table summarizes funding for the agency, by program and source, as recommended by the Governor. Funding for each program is discussed in detail in the individual program narratives that follow.

Program Funding Table Highway Patrol Division						
Program Funding	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
01000 Total General Fund	\$ 194,236	0.7%	\$ 613,482	1.9%	\$ 615,253	2.0%
01100 General Fund	194,236	0.7%	613,482	1.9%	615,253	2.0%
02000 Total State Special Funds	27,667,390	99.3%	30,897,171	98.1%	30,727,296	98.0%
02014 Highway Patrol Retire Clearing	4,230,233	15.2%	4,557,908	14.5%	4,565,766	14.6%
02422 Highways Special Revenue	23,437,157	84.1%	26,339,263	83.6%	26,161,530	83.5%
Grand Total	\$ 27,861,626	100.0%	\$ 31,510,653	100.0%	\$ 31,342,549	100.0%

General fund in this division supports the executive protection function. All other functions are supported by state special revenue with the bulk of the costs supported by highways state special revenue. The highway patrol recruitment and retention fund supported by a \$5 vehicle registration fees may be used to support the cost of additional uniformed officers, equipment, and pay increases. Please refer to the narrative for the Department of Transportation in Volume 5 of this budget analysis for a discussion of the highway state special revenue fund.

**LFD
ISSUE**General Fund Increase

Traditionally, the only function in this program supported by the general fund has been the executive protection function. However, between the 2011 and 2013 biennia general fund support for the division would increase from less than \$400,000 to more than \$1.2 million in the executive budget. The general fund increase is due to:

- o Statewide present law adjustments, \$551,000
- o A request for an additional officer for executive protection, \$207,000
- o A request for overtime for executive protection (included in the decision package for base budget adjustments), \$107,000

These increases are offset by a \$25,000 reduction due to a 4% reduction in personal services.

While the decision packages requesting an additional officer and overtime for executive protection clearly specifies what would be supported by the general fund, it is unclear what items are supported by the general fund increase in statewide present law adjustments. If the general fund increase is solely related to the executive protection function, the cost for this function triples, rising from less than \$200,000 per year to more than \$600,000 per year.

At the time of this writing, clarification of the specific items supported by the general fund had not been received. There is indication that the adjustment to general fund support for this program may be included in revisions to the executive budget that will be issued December 15, 2010. Prior to taking action on this item the legislature may wish to receive updated information that clearly specifies what items would be supported by the general fund if the executive budget is adopted. Additionally, the legislature may wish to direct staff to shift funding from the general fund to the highway state special revenue account that has previously supported costs other than the executive protection function.

Options:

- o Shift funding for statewide present law adjustments from the general fund to state special revenue
- o Remove general fund support from statewide present law adjustments
- o Approve the executive request as presented

**LFD
ISSUE**Use of Fund and Fund Balance

The figure illustrates the beginning fund balance and anticipated activity for the highway patrol recruitment and retention fund. This fund was created in HB 35 by the 2005 Legislature to provide funding for additional troopers and their equipment, and biennial pay increases for troopers as determined by a salary survey of eight county sheriff offices. Revenue for the fund comes from a \$5 vehicle registration fee. Revenues appear to have stabilized at just over \$5 million per year. Expenses have not yet reached the level of revenues. Because the revenue has exceeded expenditures since inception of the fund, a fund balance has been created. The FY 2010 ending fund balance was \$7.5 million and based upon the executive budget request would grow to \$9.3 million by the end of the 2013 biennium.

Item	Executive Budget			
	Highway Patrol Recruitment and Retention			
	State Special Revenue Fund 02014			
Item	Actual FY 2010	Estimated FY 2011	Requested FY 2012	Requested FY 2014
Beginning Balance	\$6,594,985	\$7,559,517	\$8,178,453	\$8,720,645
Disbursements:				
Uniformed Personnel	4,230,233	4,481,164	4,224,686	4,227,470
DP 1301 Add 9.00 FTE Troopers			152,817	152,479
DP 1304 MHP Base Adjustments	0	0	180,405	185,817
Total Expenses	\$4,230,233	\$4,481,164	\$4,557,908	\$4,565,766
Total Revenues	<u>5,090,535</u>	<u>5,100,100</u>	<u>5,100,100</u>	<u>5,100,100</u>
Revenue Less Disbursements.	\$860,302	\$618,936	\$542,192	\$534,334
Fund Balance Adjustment	<u>104,230</u>	0	0	0
Ending Balance	\$7,559,517	\$8,178,453	\$8,720,645	\$9,254,979

**LFD
ISSUE CONT.**

There are two primary issues with this fund:

- o The executive budget does not fund the entire cost of items that may be funded with this account from the account
- o Use of this fund to fully support permissible expenditures will eventually result in expenditures from the fund exceeding revenues to the fund

There are several ways that the legislature could impact this fund balance, one of them being to impact the level of expenditure from the fund. The executive budget proposes the addition of 9.00 FTE highway patrol troopers but funds only a portion (22.3%) of these costs from this fund (with highway state special revenue supporting the balance). The entire costs of these new troopers and related equipment could be funded by this account. The figure below illustrates the actual and estimated fund balance for the account if the request for increased troopers is funded entirely by this account. Under this scenario, expenses charged to the fund would be about equal to the anticipated revenue.

Funding Entire Cost of New Officers Highway Patrol Recruitment and Retention State Special Revenue Fund 02014				
Item	Actual FY 2010	Estimated FY 2011	Requested FY 2012	Requested FY 2014
Beginning Balance	\$6,594,985	\$7,559,517	\$8,178,453	\$8,217,595
Disbursements:				
Uniformed Personnel	4,230,233	4,481,164	4,224,686	4,227,470
DP 1301 Add 9.00 FTE Troopers			655,867	654,415
DP 1304 MHP Base Adjustments	0	0	180,405	185,817
Total Expenses	\$4,230,233	\$4,481,164	\$5,060,958	\$5,067,702
Total Revenues	<u>\$5,090,535</u>	<u>\$5,100,100</u>	<u>\$5,100,100</u>	<u>\$5,100,100</u>
Revenue Less disbursements.	\$860,302	\$618,936	\$39,142	\$32,398
Fund Balance Adjustment	<u>104,230</u>	<u>0</u>	<u>0</u>	<u>0</u>
Ending Balance	<u>\$7,559,517</u>	<u>\$8,178,453</u>	<u>\$8,217,595</u>	<u>\$8,249,993</u>

required by statute, expenditures from the fund will exceed revenues. Leaving a fund balance in this account would allow the account to continue to support some costs for several years.

Increasing expenditures from the fund and transferring the balance in the account to the general fund would both expedite reaching the point where expenditures exceed revenues and funds would no longer be available to support increased costs unless a fee increase occurred.

Options

- o Fund the entire request for 9.00 FTE additional troopers from this fund
- o Direct staff to monitor the funding of statutorily required biennial pay increases for troopers included in the pay plan bill so that an amendment to use this fund to support the increase may be considered if necessary
- o Limit any funding approved for the two items above to an amount that may be supported within the amount of annual revenues received by the fund
- o Transfer the fund balance in this account to the general fund

An item not included in the executive budget, but to be included in the pay plan bill, is biennial pay increases for troopers, which was one of the purposes for this fund. 2-18-303, MCA provides that a biennial salary survey of eight county sheriff offices be conducted and used by the department to establish trooper salaries. The department estimates this salary increase for the 2013 biennium at 4.9% equating to about \$950,000 per year in increased cost.

The legislature could also choose to maintain annual expenditures at or below annual revenues to the fund and either leave the fund balance in the account at its current level or transfer the fund balance to the general fund. As troopers are added and biennial salary increases provided as

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	194,236	194,236	388,472	31.62%	27,861,626	27,861,626	55,723,252	88.66%
Statewide PL Adjustments	275,033	275,542	550,575	44.81%	1,525,183	1,585,466	3,110,649	4.95%
Other PL Adjustments	156,638	157,909	314,547	25.60%	2,136,269	1,907,891	4,044,160	6.43%
New Proposals	(12,425)	(12,434)	(24,859)	(2.02%)	(12,425)	(12,434)	(24,859)	(0.04%)
Total Budget	\$613,482	\$615,253	\$1,228,735		\$31,510,653	\$31,342,549	\$62,853,202	

Present Law Adjustments

The “Present Law Adjustments” table shows the changes to the adjusted base budget proposed by the executive. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
FTE	Fiscal 2012				Fiscal 2013				Total Funds
	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	
Personal Services				1,089,466					1,103,718
Inflation/Deflation				141,176					186,035
Fixed Costs				294,541					295,713
Total Statewide Present Law Adjustments	\$275,033	\$1,250,150	\$0	\$1,525,183		\$275,542	\$1,309,924	\$0	\$1,585,466
DP 1301 - Troopers on the Road	9.00	0	685,867	0	685,867	9.00	0	684,415	0
DP 1302 - Executive Protection	1.00	103,830	0	0	103,830	1.00	103,632	0	0
DP 1303 - IT Smart COP	0.00	0	567,000	0	567,000	0.00	0	317,000	0
DP 1304 - MHP Base Adjustments	0.00	52,808	726,764	0	779,572	0.00	54,277	748,567	0
Total Other Present Law Adjustments	10.00	\$156,638	\$1,979,631	\$0	\$2,136,269	10.00	\$157,909	\$1,749,982	\$0
Grand Total All Present Law Adjustments	10.00	\$431,671	\$3,229,781	\$0	\$3,661,452	10.00	\$433,451	\$3,059,906	\$0
									\$3,493,357

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

- o **Pay Plan Exceptions** - The program does not face any difficulties with the agency pay plan rules.
- o **Program Specific Obstacles** - Retaining dispatchers continues to be a difficulty due to the high stress nature of the job.
- o **Vacancy** - Dispatchers continue to be a high turnover occupation by virtue of the demands of the occupation. Burnout rate is high in the first five years. Further, the relevant labor market is Helena Police/Lewis & Clark County, which currently has a higher pay scale. In terms of attracting qualified people, the program updated its recruitment and selection process and went to an “open until filled” posting. The updated process requires critical skill proficiency testing as the first step in the hiring process, helping to identify competent applicants. Once hired dispatchers receive hands-on training for up to one year. Vacancies result in increased workload for other employees and increased overtime.
- o **Legislatively Applied Vacancy Savings** - Positions were held open extensively prior to recruitment and selection.

- o **Pay/Position Changes** - The division funded the following pay adjustments within the existing budget: reclassification of an administrative assistant; progression and statutorily required increases for highway patrol law enforcement managers, captains, specialist, sergeants, and officers; progression increases for police fire dispatchers; and, pay increases for the Attorney General's personal staff.
- o **Retirements** - The division anticipates 21 employees will be eligible for full retirement in the 2013 biennium. The anticipated compensated absence liability to the division will be \$744,146. The division monitors vacancies on a regular basis holding officer recruitment schools and command testing at certain times of the year in order to be prepared for new hires and promotions.

The statewide present law adjustment for personal services increases due to fully funding vacant positions and increases in health insurance costs.

DP 1301 - Troopers on the Road - This decision package requests 9.00 FTE and related operating costs to add troopers.

The following information is provided so that the legislature can consider various issues when examining the decision package. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

Justification: Additional troopers are necessary to improve public safety in rural Montana by improving MHP availability in areas that have traditionally had a low number of resident troopers. Improved availability reduces instances of the public waiting for troopers to respond to calls for service and allows for more proactive prevention of crime. It also improves officer safety for MHP troopers, county sheriff's deputies, and local city police.

Goals: The goal of the proposal is to respond to HB 35 of the 2005 legislative session and to achieve a continued decline in highway fatality rates, as well as declines in general crime due to increased visibility of officers enforcing Montana traffic laws.

Performance Criteria: Progress will be measured in two ways: 1) the number of fatalities by vehicle miles travelled per 100,000 of population; and 2) the number of crimes using the NHTSA Data Driven Approaches to Crime and Traffic Safety (DDACTS).

**LFD
COMMENT**

Per the National Highway Traffic Safety Administration website, "DDACTS integrates location-based crime and traffic crash data to determine the most effective methods for deploying law enforcement and other resources. Drawing on the deterrent value of highly visible traffic enforcement and the knowledge that crimes often involve motor vehicles, the goal of DDACTS is to reduce crime, crashes, and traffic violations across the country."

Milestones: Troopers will be placed into communities by March, 2012 after completing mandatory training.

FTE: Nine uniformed troopers.

Funding Source: Highway and MHP recruitment and retention state special revenue funds

Future Funding: Future costs will be determined based on the statutorily required survey of sheriff offices in eight counties.

Obstacles: Success in recruitment and selection of qualified applicants to fill all the positions.

**LFD
ISSUE**

Source of Funding

Please refer to the LFD issue under the funding section of this narrative for a discussion of the highway patrol recruitment and retention fund and use of that fund to support this request.

DP 1302 - Executive Protection - This decision package requests 1.00 FTE, overtime, and increased operating costs for executive protection. Executive protection is funded by the general fund.

The following information is provided so that the legislature can consider various issues when examining the decision package. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

Justification: An additional officer is needed to provide minimum staffing levels for dignitary protection functions within the division.

Goals: To provide minimum staffing levels in order to ensure the safety of protected persons and employees who are providing protection. Detail members are subjected to extended work shifts, varying schedules, and extensive travel. Minimum staffing levels are needed to provide as safe a work environment as possible for employees, and to ensure the safety of those subjects of protective missions.

Performance Criteria: Performance will be measured by employee turnover, amount of overtime per detail member, and establishment of a safer work environment.

Milestones: Modified FTE becomes permanent July 1, 2011.

FTE: Three uniformed officers

Funding Source: General fund

Future Funding: Future costs will be determined based on the statutorily required survey of eight county sheriff offices

Obstacles: Recruiting and retaining qualified personnel is a challenge due to the demanding nature of the position. Detail members are exposed to varying schedules, long hours, and extensive travel. Employee burn out is common due to these factors. Personal security and safety is at risk under these extreme circumstances. Long term stability and consistency of the program dictates that employees have a safe and predictable work environment.

DP 1303 - IT Smart COP - This decision package requests funding for information technology enhancements and equipment replacement for the Smart COP Computer Aided Dispatch/Records Management System. Smart COP provides an integrated information system for the MHP dispatch and patrol. The system includes software, hardware, and services to support dispatch operations and an in-car mobile solution including a laptop, printer, card reader, wireless connection, and various other equipment. Smart Cop will be in an operations and maintenance mode, which includes the need to refresh equipment to ensure high quality system operation.

**LFD
COMMENT**

Implementation of the Smart Cop technology was funded primarily by grants. The department is requesting funding for equipment replacements and system maintenance costs. Funding is requested from the Highways State Special Revenue Fund.

DP 1304 - MHP Base Adjustments - This decision package requests funding for various operating costs increases including overtime, rent and travel.

**LFD
ISSUE**

Executive Protection Overtime

The general fund included in this decision package supports overtime for the executive protection function. The requested overtime funding of more than \$50,000 per year equates to funding for about 0.50 FTE. This level of overtime equates to about 15% of the 3.00 FTE staffing level for executive protection (2.00 authorized FTE and 1.00 modified FTE).

New Proposals

The "New Proposals" table summarizes all new proposals requested by the Governor. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals											
Program	FTE	Fiscal 2012				Fiscal 2013				Total Funds	
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special		
DP 55400 - 4% personal services reduction MHP	13	(0.25)	(12,425)	0	0	(12,425)	(0.25)	(12,434)	0	0	(12,434)
Total		(0.25)	(\$12,425)		\$0	(\$12,425)	(0.25)	(\$12,434)		\$0	(\$12,434)

DP 55400 - 4% personal services reduction MHP - The executive recommends a 4% reduction of personal services funded with general fund.

**LFD
ISSUE**
Positions Not Specified

The positions included in the personal services reduction have not been specified making it difficult to determine the impact of the reduction. However, in this division, executive protection is the only function supported by the general fund. Given the present law adjustment decision package requesting an additional 1.00 FTE for executive protection, the change when the two decision packages are combined would be an increase of 0.75 FTE.

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison		Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
FTE	100.00	100.00	98.75	98.75	100.00	98.75	(1.25)	(1.25%)	
Personal Services	5,516,849	5,799,544	6,030,213	6,035,836	11,316,393	12,066,049	749,656	6.62%	
Operating Expenses	3,246,841	3,508,461	3,908,785	3,917,982	6,755,302	7,826,767	1,071,465	15.86%	
Equipment & Intangible Assets	170,162	351,101	270,162	270,162	521,263	540,324	19,061	3.66%	
Debt Service	0	0	0	0	0	0	0	n/a	
Total Costs	\$8,933,852	\$9,659,106	\$10,209,160	\$10,223,980	\$18,592,958	\$20,433,140	\$1,840,182	9.90%	
General Fund	5,339,655	5,426,411	5,668,865	5,682,759	10,766,066	11,351,624	585,558	5.44%	
State Special	2,773,107	3,048,258	3,674,052	3,673,269	5,821,365	7,347,321	1,525,956	26.21%	
Federal Special	821,090	1,184,437	866,243	867,952	2,005,527	1,734,195	(271,332)	(13.53%)	
Total Funds	\$8,933,852	\$9,659,106	\$10,209,160	\$10,223,980	\$18,592,958	\$20,433,140	\$1,840,182	9.90%	

Program Description

The Division of Criminal Investigation (DCI) includes the administration, management, and coordination of criminal investigative services and training performed by the Investigations Bureau, the Narcotics Bureau, the Investigative Support Bureau, and the Law Enforcement Academy Bureau.

The Investigations Bureau consists of four sections:

- o The Fire Prevention and Investigation Section is responsible for safeguarding life and property from fire, explosion, and arson through investigation, inspection, and fire code interpretation and enforcement functions
- o The Special Investigations Unit investigates crimes involving the use of computers, maintains the Sexual and Violent Offender Registry, and provides advanced training opportunities for law enforcement officials statewide
- o The Major Case Section provides criminal investigative assistance to city, county, state, and federal law enforcement agencies
- o The Medicaid Fraud Control Section is responsible for investigating any crime that occurs in a health care facility, including theft, drug diversion, sexual assault, and homicide. The section also investigates elder exploitation, elder abuse, and fraud by providers within the Medicaid system.

The Narcotics Bureau investigates dangerous drug violations and provides investigative assistance to city, county, state, and federal law enforcement agencies as requested. The bureau also investigates organized criminal activity.

The Investigative Support Bureau is responsible for establishing a statewide intelligence center, performing criminal records checks, operating the Criminal Justice Information Network, and addressing homeland security issues.

The Law Enforcement Academy Bureau provides criminal justice officers and other qualified individuals with basic and specialized training in the field of law enforcement.

Program Highlights

Division of Criminal Investigation Major Budget Highlights
<ul style="list-style-type: none"> ◆ Total funding for the division increases 9.9% (\$1.8 million) between the two biennia <ul style="list-style-type: none"> • General fund increases 5.4% (\$586,000) primarily due to statewide present law adjustment increases that are partially offset by a 4% reduction in personal services • State special revenue increases 26.2% (\$1.5 million) primarily due to requests for increased funding for criminal justice information systems
Major LFD Issues
<ul style="list-style-type: none"> ◆ Positions included in the FTE reduction have not been specified ◆ The state special revenue account supporting the Montana Law Enforcement Academy continues to lack sufficient revenues to support expenditure levels

Program Narrative

Goals and Objectives

2011 Biennium Goals

The following provides an update of the goals monitored by the LFC during the 2011 biennium.

Goal 1 – The goal of the Public Safety Officers Standards and Training Council (POST) is to institute a business process to create a system of standardized employment, training, and certification requirements to ensure that the Public Safety Officers as defined in 44-4-401, MCA are capable of providing for the safety of the public in a manner acceptable by the State of Montana.

- o Successes
 - Work to ensure the accuracy of the records data base is ongoing
 - 134 of an estimated 144 agencies under the jurisdiction of the POST Council have been audited for compliance
- o Challenges
 - The council has determined that amendments to current statute and increased funding for this function will not be requested during the 2011 legislative session but may be considered for presentation in 2013

Goal 2 – Methamphetamine Watch media campaign

- o Successes
 - The request for proposals is expected to be available for responders by November 1, 2010
- o Challenges
 - Funding for the biennium was reduced from \$500,000 to \$300,000 in accordance with the provisions of 17-7-140, MCA

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

The 5% reduction plan for this division proposes:

- o General fund reductions including a 4% reduction in personal services (included in the executive budget) and reductions in the Montana Child Sexual Abuse Response Team (MCSART) Program (\$96,056)
- o State special revenue reductions in the Criminal Records Information Services Section (CRISS) (\$37,000) and Montana Law Enforcement Academy (MLEA) (\$70,000)

Potential impacts of these reductions include a reduction in services to other state and local agencies. Less state resources would be available to assist local law enforcement agencies with child sexual abuse investigations, major criminal investigations, and training of new law enforcement officers.

Funding

The following table summarizes funding for the agency, by program and source, as recommended by the Governor. Funding for each program is discussed in detail in the individual program narratives that follow.

Program Funding Table						
Div. Of Criminal Investigation						
Program Funding	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
01000 Total General Fund	\$ 5,339,655	59.8%	\$ 5,668,865	55.5%	\$ 5,682,759	55.6%
01100 General Fund	5,339,655	59.8%	5,668,865	55.5%	5,682,759	55.6%
02000 Total State Special Funds	2,773,107	31.0%	3,674,052	36.0%	3,673,269	35.9%
02016 Criminal Justice Info Network	385,656	4.3%	596,674	5.8%	596,850	5.8%
02546 Mtlaw Enforc. Acad. Surcharge	1,411,433	15.8%	1,496,383	14.7%	1,498,394	14.7%
02797 Cjis - Background Checks	733,393	8.2%	1,323,524	13.0%	1,320,330	12.9%
02937 Justice State Special Misc	242,625	2.7%	257,471	2.5%	257,695	2.5%
03000 Total Federal Special Funds	821,090	9.2%	866,243	8.5%	867,952	8.5%
03051 Homeland Security	117,447	1.3%	133,264	1.3%	133,358	1.3%
03187 Bcc Grants To Dept. Of Justice	221,342	2.5%	234,421	2.3%	234,656	2.3%
03800 Medicaid Fraud	482,301	5.4%	498,558	4.9%	499,938	4.9%
Grand Total	\$ 8,933,852	100.0%	\$ 10,209,160	100.0%	\$ 10,223,980	100.0%

The division is supported by a combination of general fund, state special revenue, and federal funds. General fund supports criminal investigations, fire prevention and investigation, match for federal funds supporting Medicaid fraud investigations, drug task forces, the computer crime unit, sexual and violent offender registry, amber alert, child sexual abuse response team, and Public Safety Officer Standards and Training (POST).

The three largest sources of state special revenue supporting the division are Montana Law Enforcement Academy surcharges that support operation of the academy, criminal justice information network (CJIN) revenue that supports itself, and revenue from criminal justice background checks that are paid in exchange for completion of a background check.

The largest source of federal funds is Medicaid funding that supports investigation of Medicaid fraud. Other federal grants support drug enforcement task forces and homeland security functions. Federal funds for homeland security and grants received through the Montana Board of Crime Control (MBCC) did not reach the budgeted level in the 2011 biennium and are included in the 2013 biennium request at the level received in the base budget year.

**LFD
ISSUE**Solvency of MLEA fund

The figure summarizes FY 2010 actual and FY 2011 through 2013 anticipated revenues and expenditures for the MLEA state special revenue account. In FY 2010 revenues exceeded expenses by only \$351 and in FY 2011 through FY 2013 expenses (including full funding for all authorized positions) are expected to exceed revenues, driving the fund into a \$75,000 negative ending fund balance by the end of the 2013 biennium. One way used by the division to maintain expenses within the available revenue in FY 2010 was leaving positions vacant. The vacancy rate for MLEA was more than 12%, the equivalent of about 1.80 FTE in FY 2010. Given that an instructor is necessary in order for classes to be held, vacancies may create a downward spiral because a decrease in class offerings also decreases the fees collected from agencies sending staff to training.

Montana Law Enforcement Academy - State Special Revenue 02546				
Item	Actual FY 2010	Estimated FY 2011	Requested FY 2012	Requested FY 2014
Beginning Balance	(\$10,872)	\$51,766	(\$52,341)	(\$63,356)
Expenses:				
MT Law Enforcement Academ	1,417,186	1,595,024	1,505,503	1,507,514
Decision Package PL 1805			(9,120)	(9,120)
Centralized Service Division	<u>15,243</u>	<u>14,583</u>	<u>17,132</u>	<u>16,273</u>
Total Expenses	\$1,432,429	\$1,609,607	\$1,513,515	\$1,514,667
Revenue:				
Criminal Surcharges	999,566	1,076,000	1,076,000	1,076,000
MLEA Generated/Course Fees	419,892	420,000	417,000	417,000
Other	<u>13,322</u>	<u>9,500</u>	<u>9,500</u>	<u>9,500</u>
Total Revenue	\$1,432,780	\$1,505,500	\$1,502,500	\$1,502,500
Revenue Less Expenses	351	(104,107)	(11,015)	(12,167)
Fund Balance Adjustment	<u>62,287</u>	<u>0</u>	<u>0</u>	<u>0</u>
Ending Balance	\$51,766	(\$52,341)	(\$63,356)	(\$75,523)

The solvency of this account has been an ongoing concern since HB 124 from the 2003 session switched funding for the MLEA from the general fund to a state special revenue account funded by a surcharge on certain criminal convictions and fees charged to students. Since that time, revenue estimates have not been realized at the level projected at the time the surcharge was implemented, creating ongoing funding difficulties. This issue has been discussed in the Legislative Budget Analysis for the past three biennia.

Surcharge revenues appear to have stabilized at the base budget level. Based upon the amount collected in FY 2010 it is estimated that a \$5 increase in this surcharge (from \$10 to \$15) would generate about \$500,000 per year in additional revenue or increase the revenue from this source by about 50%. Agency staff indicated that the agency plans to operate within the current revenue structure for the 2013 biennium but that a change in revenue structure (such as an increase in the criminal surcharge) may be sought in the future.

Given the ongoing difficulty with solvency in this account the legislature may wish to:

- Increase criminal conviction surcharges
- Recommend that the department increase fees charged to law enforcement agencies for services provided by the academy
- Provide a minimum level of general fund to assist in maintenance of ongoing operations
- Redirect fees to the general fund and provide a general fund appropriation for this purpose
- Decrease the requested level of expenditures by removal of funding for vacant FTE or other items

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	5,339,655	5,339,655	10,679,310	94.08%	8,933,852	8,933,852	17,867,704	87.44%
Statewide PL Adjustments	439,469	444,105	883,574	7.78%	698,051	707,144	1,405,195	6.88%
Other PL Adjustments	51,697	61,898	113,595	1.00%	739,213	745,883	1,485,096	7.27%
New Proposals	(161,956)	(162,899)	(324,855)	(2.86%)	(161,956)	(162,899)	(324,855)	(1.59%)
Total Budget	\$5,668,865	\$5,682,759	\$11,351,624		\$10,209,160	\$10,223,980	\$20,433,140	

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
FTE	Fiscal 2012				Fiscal 2013					
	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services				846,123					853,094	
Vacancy Savings				(254,519)					(254,793)	
Inflation/Deflation				(22,402)					(16,292)	
Fixed Costs				128,849					125,135	
Total Statewide Present Law Adjustments	\$439,469	\$213,429	\$45,153	\$698,051		\$444,105	\$216,177	\$46,862	\$707,144	
DP 1803 - DCI Base Adjustments	0.00	51,697	0	51,697	0.00	61,898	0	0	61,898	
DP 1804 - IT Criminal Justice Info Network (CJIN) BIEN/OTO	0.00	0	575,000	575,000	0.00	0	575,000	0	575,000	
DP 1805 - MLEA Motor Pool Leased Vehicle Return	0.00	0	(9,120)	(9,120)	0.00	0	(9,120)	0	(9,120)	
DP 1806 - Criminal Records Identification Section - FTE	1.00	0	121,636	121,636	1.00	0	118,105	0	118,105	
Total Other Present Law Adjustments	1.00	\$51,697	\$687,516	\$0	\$739,213	1.00	\$61,898	\$683,985	\$0	\$745,883
Grand Total All Present Law Adjustments	1.00	\$491,166	\$900,945	\$45,153	\$1,437,264	1.00	\$506,003	\$900,162	\$46,862	\$1,453,027

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

- o **Pay Plan Exceptions** - None
- o **Program Specific Obstacles** - The division receives a number of grants that require workers with specialized skills. Recruiting for these specialized workers is often difficult due to short timelines and extensive experience requirements.
- o **Vacancy** - Turnover is typically a result of retirements and completion of grant funded activities within the division. Vacancies resulted in increased workload, stress, and overtime for other employees.
- o **Legislatively Applied Vacancy Savings** - Positions were held open extensively prior to recruitment and selection.
- o **Pay/Position Changes** - Pay increases funded within the existing budget included: reclassification of criminal investigators, movement of law enforcement managers to the protective pay matrix, and increases for the

Attorney General's personal staff. Funding for market adjustments for lawyers was provided by the 2009 Legislature

- o **Retirements** - The bureau anticipates eight employees will be eligible for retirement in the 2013 biennium. The anticipated compensated absence liability to the bureau will be \$243,294. The division will lose seasoned managers and to minimize the impact is offering both cross training and professional development opportunities to existing staff.

DP 1803 - DCI Base Adjustments - This decision package requests funding for overtime expense for criminal investigators and rent increases for division offices located throughout the state. \$30,000 per year is requested for overtime and \$13,873 and \$21,123 is requested for rent increase in FY 2012 and 2013, respectively. Annual rent cost increases range between 3% and 4% per year.

DP 1804 - IT Criminal Justice Info Network (CJIN) BIEN/OTO - This decision package requests a biennial, one-time only appropriation for the costs of the Criminal Justice Information Network (CJIN) upgrade that is completed once every four years.

DP 1805 - MLEA Motor Pool Leased Vehicle Return - This decision package decreases funding for the Montana Law Enforcement Academy due to the discontinuation of the lease of one motor pool vehicle. The reduction in cost due to the return of a leased vehicle is offset by a \$4,880 per year increase in gasoline and vehicle costs. The division will use a surplus highway patrol vehicle instead of a leased vehicle.

DP 1806 - Criminal Records Identification Section - FTE - This decision package requests 1.00 FTE for staffing and operational cost increases based on criminal history record information requests completed and to support transfer of monies owed to the Federal Bureau of Investigations (FBI) when fingerprint background checks are conducted by the FBI.

New Proposals

The "New Proposals" table summarizes all new proposals requested by the Governor. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals											
Program	FTE	Fiscal 2012				Total Funds	Fiscal 2013				Total Funds
		General Fund	State Special	Federal Special	FTE		General Fund	State Special	Federal Special	Total Funds	
DP 55400 - 4% Personal Services Reduction DCI	18	(2.25)	(161,956)	0	0	(161,956)	(2.25)	(162,899)	0	0	(162,899)
Total	Total	(2.25)	(\$161,956)	\$0	\$0	(\$161,956)	(2.25)	(\$162,899)	\$0	\$0	(\$162,899)

DP 55400 - 4% Personal Services Reduction DCI - The executive recommends a 4% reduction of personal services funded with general fund.

LFD ISSUE

Program Impact Unknown

The agency has not identified the positions that will be included in the 4% personal services reduction. Without identification of the types of positions that would be eliminated it is not possible to assess the impact on the program of these reductions. In FY 2010, the division experienced vacancy savings of 7.1% or the equivalent of 7.2 positions vacant for the entire year

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison									
Budget Item	Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change	
FTE	19.00	19.00	18.70	18.70	19.00	18.70	(0.30)	(1.58%)	
Personal Services	1,034,470	1,109,775	1,147,001	1,146,358	2,144,245	2,293,359	149,114	6.95%	
Operating Expenses	255,049	224,550	291,711	219,325	479,599	511,036	31,437	6.55%	
Equipment & Intangible Assets	0	0	0	0	0	0	0	n/a	
Total Costs	\$1,289,519	\$1,334,325	\$1,438,712	\$1,365,683	\$2,623,844	\$2,804,395	\$180,551	6.88%	
General Fund	492,526	534,677	537,653	509,767	1,027,203	1,047,420	20,217	1.97%	
State Special	724,976	727,308	819,631	778,568	1,452,284	1,598,199	145,915	10.05%	
Other	72,017	72,340	81,428	77,348	144,357	158,776	14,419	9.99%	
Total Funds	\$1,289,519	\$1,334,325	\$1,438,712	\$1,365,683	\$2,623,844	\$2,804,395	\$180,551	6.88%	

Program Description

The Central Services Division (CSD) provides accounting; asset management; budgeting; fiscal management; human resources; internal controls; payroll and benefits; purchasing; training; and assistance with the implementation of policies, rules, and regulations for the Department of Justice. The program also administers payments to counties for a portion of the cost of the county attorney.

Program Highlights

Central Service Division Major Budget Highlights
<ul style="list-style-type: none"> ◆ Total funding for this division increases about \$181,000 or 6.9% between the two biennia due to statewide present law adjustments ◆ General fund support for the division increases about \$20,000 or 2% between the two biennia <ul style="list-style-type: none"> • General fund increases in statewide present law adjustments are partially offset by the executive proposal to reduce personal services by 4%
Major LFD Issues
<ul style="list-style-type: none"> ◆ Positions included in the FTE reduction have not been specified

Program Narrative

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

The 5% reduction plan for this division proposes a 4% reduction in personal services funded by the general fund. A decision package to implement this reduction, by removal of a 0.30 FTE and about \$19,000 per year, is included in the executive budget.

Funding

The following table shows program funding, by source, for the base year and for the 2013 biennium as recommended by the Governor.

Program Funding Table Central Services Division							
Program Funding	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013	
01000 Total General Fund	\$ 492,526	38.2%	\$ 537,653	37.4%	\$ 509,767	37.3%	
01100 General Fund	492,526	38.2%	537,653	37.4%	509,767	37.3%	
02000 Total State Special Funds	724,976	56.2%	819,631	57.0%	778,568	57.0%	
02016 Criminal Justice Info Network	270	0.0%	305	0.0%	289	0.0%	
02074 Gambling License Fee Account	56,368	4.4%	63,733	4.4%	60,539	4.4%	
02140 Consumer Education Settlement	14,546	1.1%	16,446	1.1%	15,622	1.1%	
02422 Highways Special Revenue	615,172	47.7%	695,481	48.3%	660,640	48.4%	
02546 Mtlaw Enfrc. Acad. Surcharge	15,152	1.2%	17,132	1.2%	16,273	1.2%	
02797 Cjis - Background Checks	23,468	1.8%	26,534	1.8%	25,205	1.8%	
06000 Total Proprietary Funds	72,017	5.6%	81,428	5.7%	77,348	5.7%	
06005 Liquor Division	58,000	4.5%	65,578	4.6%	62,293	4.6%	
06500 Agency Legal Services	14,017	1.1%	15,850	1.1%	15,055	1.1%	
Grand Total	\$ 1,289,519	100.0%	\$ 1,438,712	100.0%	\$ 1,365,683	100.0%	

The Central Services Division is funded by allocation of costs among the various funding sources supporting the department. General fund provides about 37% of the division's funding. State special revenue, the largest source being highway state special revenue, provides about 57% of the division funding. Proprietary funds including liquor licensing fees and fees for agency legal services provide about 6% of the division's funding.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	492,526	492,526	985,052	94.05%	1,289,519	1,289,519	2,579,038	91.96%
Statewide PL Adjustments	64,300	36,406	100,706	9.61%	168,366	95,329	263,695	9.40%
Other PL Adjustments	0	0	0	0.00%	0	0	0	0.00%
New Proposals	(19,173)	(19,165)	(38,338)	(3.66%)	(19,173)	(19,165)	(38,338)	(1.37%)
Total Budget	\$537,653	\$509,767	\$1,047,420		\$1,438,712	\$1,365,683	\$2,804,395	

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments					Fiscal 2012					Fiscal 2013				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds				
Personal Services					180,293					179,617				
Vacancy Savings					(48,589)					(48,564)				
Inflation/Deflation					(5)					9				
Fixed Costs					36,667					(35,733)				
Total Statewide Present Law Adjustments	\$64,300	\$94,655		\$0	\$168,366*				\$36,406	\$53,592		\$0	\$95,329*	
Grand Total All Present Law Adjustments	0.00	\$64,300	\$94,655	\$0	\$168,366*	0.00	\$36,406	\$53,592	\$0	\$95,329*				

* "Total Funds" amount includes funding from sources other than General Fund, State Special, or Federal Special (i.e. Proprietary).

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

- o **Pay Plan Exceptions** – None
- o **Program Specific Obstacles** - Attracting and hiring qualified accountants is difficult. Internal equity, which is directly related to funding, reduces the ability to hire applicants at salaries above entry.
- o **Vacancy** - Accounting technicians and accountants have a high turnover rate. Other state agencies have offered higher salaries for the same type of work, reduced overtime, and offer a less stressful environment according to terminating accountants and accounting technicians. The division offers increased access to flexible work schedules and cross training to reduce overtime and on the job stress. Vacancies result in doubling up on duties, reprioritized work, and requests for assistance from other divisions.
- o **Legislatively Applied Vacancy Savings** – Positions were held open extensively prior to recruitment and selection.
- o **Pay/Position Changes** – The division funded the following pay changes within existing funds: competency adjustments for an accountant, movement toward market for a financial manager and human resource specialists, and an increase for the Attorney General's personal staff.
- o **Retirements** - The division anticipates two employees will be eligible for full retirement in the 2013 biennium. The anticipated compensated absence liability to the division will be \$63,672. The division will lose seasoned managers. To minimize the impact, cross training and professional development opportunities will be offered to existing staff.

The statewide present law adjustments increase due to fully funding vacant positions and increases in health insurance costs.

New Proposals

The “New Proposals” table summarizes all new proposals requested by the Governor. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals											
Program	FTE	Fiscal 2012				Fiscal 2013				Total Funds	
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special		
DP 55400 - 4% Personal Services Reduction CSD	28	(0.30)	(19,173)	0	0	(19,173)	(0.30)	(19,165)	0	0	(19,165)
Total	Total	(0.30)	(\$19,173)	\$0	\$0	(\$19,173)	(0.30)	(\$19,165)	\$0	\$0	(\$19,165)

DP 55400 - 4% Personal Services Reduction CSD - The executive recommends a 4% reduction of personal services funded with general fund. The reduction includes the permanent reduction of FTE.

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison									
Budget Item	Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change	
FTE	41.00	41.00	39.50	39.50	41.00	39.50	(1.50)	(3.66%)	
Personal Services	2,292,833	2,523,378	2,521,791	2,521,402	4,816,211	5,043,193	226,982	4.71%	
Operating Expenses	1,033,084	977,628	1,094,155	1,091,475	2,010,712	2,185,630	174,918	8.70%	
Equipment & Intangible Assets	90,135	87,831	90,135	90,135	177,966	180,270	2,304	1.29%	
Total Costs	\$3,416,052	\$3,588,837	\$3,706,081	\$3,703,012	\$7,004,889	\$7,409,093	\$404,204	5.77%	
General Fund	3,279,451	3,451,147	3,555,022	3,552,079	6,730,598	7,107,101	376,503	5.59%	
State Special	120,929	122,014	133,730	133,620	242,943	267,350	24,407	10.05%	
Federal Special	2,268	2,268	2,505	2,502	4,536	5,007	471	10.38%	
Other	13,404	13,408	14,824	14,811	26,812	29,635	2,823	10.53%	
Total Funds	\$3,416,052	\$3,588,837	\$3,706,081	\$3,703,012	\$7,004,889	\$7,409,093	\$404,204	5.77%	

Program Description

The Justice Information Technology Services Division (JITSD) provides a full range of information technology and criminal justice services for the department, including:

- o System development and maintenance for all systems and platforms within the department (MERLIN, Criminal History Record Information System and the Montana Uniform Crime Reporting System)
- o Support for the department's internal computers and systems
- o Support for the Criminal Justice Information Network (CJIN), Montana Highway Patrol Integrated Public Safety System, End of Life Registry, Hope Card, Concealed Weapons, and Amber Alert and Integrated Justice Information System (IJIS) broker

Program Highlights

Information Technology Services Division	
Major Budget Highlights	
<ul style="list-style-type: none"> ◆ Funding for the division increases 5.8% (\$404,000) between the two biennia, primarily due to an increase in general fund support for statewide present law adjustments, partially offset by a 4% reduction in personal services 	
Major LFD Issues	
<ul style="list-style-type: none"> ◆ Positions included in the personal services reduction have not been specified 	

Program Narrative

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

The 5% reduction plan for this division proposes a 4% reduction in personal services funded by the general fund. A decision package to implement this reduction is included in the executive budget.

Funding

The following table shows program funding, by source, for the base year and for the 2013 biennium as recommended by the Governor.

Program Funding Table Information Technology Service						
Program Funding	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
01000 Total General Fund	\$ 3,279,451	96.0%	\$ 3,555,022	95.9%	\$ 3,552,079	95.9%
01100 General Fund	3,279,451	96.0%	3,555,022	95.9%	3,552,079	95.9%
02000 Total State Special Funds	120,929	3.5%	133,730	3.6%	133,620	3.6%
02016 Criminal Justice Info Network	3,407	0.1%	3,766	0.1%	3,763	0.1%
02074 Gambling License Fee Account	56,107	1.6%	62,047	1.7%	61,996	1.7%
02422 Highways Special Revenue	58,345	1.7%	64,521	1.7%	64,468	1.7%
02937 Justice State Special Misc	3,070	0.1%	3,396	0.1%	3,393	0.1%
03000 Total Federal Special Funds	2,268	0.1%	2,505	0.1%	2,502	0.1%
03800 Medicaid Fraud	2,268	0.1%	2,505	0.1%	2,502	0.1%
06000 Total Proprietary Funds	13,404	0.4%	14,824	0.4%	14,811	0.4%
06005 Liquor Division	6,843	0.2%	7,567	0.2%	7,560	0.2%
06500 Agency Legal Services	6,561	0.2%	7,257	0.2%	7,251	0.2%
Grand Total	\$ 3,416,052	100.0%	\$ 3,706,081	100.0%	\$ 3,703,012	100.0%

The division is funded primarily with general fund (95.9%) and state special revenue (3.6%) from gambling licensing fees and highway state special revenue. The balance of the division's funding comes from a very small amount of federal funds (Medicaid) and proprietary funds, including liquor licensing fees and agency legal service fees.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	3,279,451	3,279,451	6,558,902	92.29%	3,416,052	3,416,052	6,832,104	92.21%
Statewide PL Adjustments	347,309	344,299	691,608	9.73%	361,767	358,631	720,398	9.72%
Other PL Adjustments	32,000	32,000	64,000	0.90%	32,000	32,000	64,000	0.86%
New Proposals	(103,738)	(103,671)	(207,409)	(2.92%)	(103,738)	(103,671)	(207,409)	(2.80%)
Total Budget	\$3,555,022	\$3,552,079	\$7,107,101		\$3,706,081	\$3,703,012	\$7,409,093	

Present Law Adjustments

The “Present Law Adjustments” table shows the changes to the adjusted base budget proposed by the executive. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments

	Fiscal 2012					Fiscal 2013				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					408,764					408,285
Vacancy Savings					(108,068)					(108,045)
Inflation/Deflation					541					706
Fixed Costs					60,530					57,685
Total Statewide Present Law Adjustments	\$347,309	\$12,801	\$237	\$361,767*			\$344,299	\$12,691	\$234	\$358,631*
DP 2906 - ITSD Base Adjustments	0.00	32,000	0	0	32,000	0.00	32,000	0	0	32,000
Total Other Present Law Adjustments	0.00	\$32,000	\$0	\$0	\$32,000	0.00	\$32,000	\$0	\$0	\$32,000
Grand Total All Present Law Adjustments	0.00	\$379,309	\$12,801	\$237	\$393,767*	0.00	\$376,299	\$12,691	\$234	\$390,631*

* “Total Funds” amount includes funding from sources other than General Fund, State Special, or Federal Special (i.e. Proprietary).

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

- o **Pay Plan Exceptions** - None
- o **Program Specific Obstacles** – Higher level information technology (IT) positions are specialized and difficult to attract within the existing agency pay plan rules. New IT applicants are offered extensive training and proficiency agreements which provide them with marketable experience and expertise. Retaining experienced employees is difficult due to promotion opportunities across state agencies. The division is working with human resources to carve out an expanded competitive zone for IT positions. The difficulty lays in internal equity and funding restrictions.
- o **Vacancy** - All IT related jobs have high turnover rates. For higher level jobs, workers have sought higher paying jobs. Lower level jobs turnover due to job satisfaction/stress and workload issues. The division has offered strategic pay or retention exceptions, flexible work schedules, teleworking, and professional development opportunities. Keeping critical criminal justice systems up and running has resulted in increased workloads, which required additional overtime, and reprioritization of critical projects.
- o **Legislatively Applied Vacancy Savings** - A number of positions were held open extensively prior to recruitment and selection.
- o **Pay/Position Changes** - The division made the following pay changes within existing funding levels: competency adjustments for computer support technician and a network administrator.
- o **Retirements** – None

The statewide present law adjustment for personal services increases due to fully funding vacant positions and increases in health insurance costs. The division experienced a vacancy rate of almost 11% during the base budget year.

DP 2906 - ITSD Base Adjustments - This decision package request funding for overtime, on-call, and call-out costs.

**LFD
COMMENT**

The division expended \$19,237 for overtime, differential pay, and holidays worked, which are zero based for budgeting purposes. The division requests an increase of about \$12,000 per year in these costs due to a change in the policy regarding on call and call out that was implemented in May 2010.

New Proposals

The "New Proposals" table summarizes all new proposals requested by the Governor. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals										
Program	FTE	Fiscal 2012				FTE	Fiscal 2013			
		General Fund	State Special	Federal Special	Total Funds		General Fund	State Special	Federal Special	Total Funds
DP 55400 - 4% Personal Services Reduction ITSD	29	(1.50)	(103,738)	0	0	(103,738)	(1.50)	(103,671)	0	0
Total	Total	(1.50)	(\$103,738)	\$0	\$0	(\$103,738)	(1.50)	(\$103,671)	\$0	\$0
										(\$103,671)

DP 55400 - 4% Personal Services Reduction ITSD - The executive recommends a 4% reduction of personal services funded with general fund. The reduction includes the permanent reduction of FTE.

**LFD
ISSUE**Program Impact Unknown

The agency has not identified the positions that will be included in the 4% personal services reduction. Without identification of the types of positions that would be eliminated it is not possible to assess the impact on the program of these reductions.

FTE reductions in this program could impact the provision of computer network support services and completion of maintenance and development of the systems operated by the department (such as MERLIN, the IJIS broker, and the criminal information system (CJIS)). Given that the division experienced vacancy savings of about 11% during FY 2010, a backlog of projects and tasks to complete may have developed and be increased by this staffing reduction. Equipment and software failures and functioning may impact the efficiency and effectiveness of programs operated by the agency.

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison		Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
FTE		34.05	34.05	32.80	32.80	34.05	32.80	(1.25)	(3.67%)
Personal Services	2,539,850	2,650,757	2,628,635	2,627,747	5,190,607	5,256,382	65,775	1.27%	
Operating Expenses	1,032,130	981,489	1,052,159	1,072,684	2,013,619	2,124,843	111,224	5.52%	
Equipment & Intangible Assets	9,551	7,827	159,551	159,551	17,378	319,102	301,724	1,736.24%	
Debt Service	150,579	153,280	150,579	150,579	303,859	301,158	(2,701)	(0.89%)	
Total Costs	\$3,732,110	\$3,793,353	\$3,990,924	\$4,010,561	\$7,525,463	\$8,001,485	\$476,022	6.33%	
General Fund	3,424,368	3,485,704	3,664,856	3,682,874	6,910,072	7,347,730	437,658	6.33%	
State Special	307,742	307,649	326,068	327,687	615,391	653,755	38,364	6.23%	
Total Funds	\$3,732,110	\$3,793,353	\$3,990,924	\$4,010,561	\$7,525,463	\$8,001,485	\$476,022	6.33%	

Program Description

The Forensic Science Division (FSD) includes the State Crime Lab in Missoula and the State Medical Examiner. The division provides a statewide system of death investigation, forensic science training, and scientific criminal investigation. The division conducts analysis on specimens submitted by law enforcement officials, coroners, and other state agencies. The division tests firearms, tool marks, hair, fiber, drugs, blood, body fluids, and tissues. The laboratory also analyzes blood and urine samples in connection with driving under the influence (DUI) cases and it provides the certification, maintenance, and training of all law enforcement personnel on breath testing instruments.

Program Highlights

Forensic Science Division Major Budget Highlights	
<ul style="list-style-type: none"> ◆ Funding for the division increases 6.3% (\$476,000) between the two biennia due an increase in general fund support <ul style="list-style-type: none"> • General fund increases due to statewide present law adjustments and a request for equipment replacement that are partially offset by a 4% reduction in personal services 	
Major LFD Issues	
<ul style="list-style-type: none"> ◆ Positions to be included in the personal services reduction are not specified 	

Program Narrative

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

The 5% plan for this division proposes a 4% reduction in personal services (1.25 FTE), which is included in the executive budget, and non renewal of an equipment maintenance lease (\$86,190). Rather than entering in to a maintenance contract the department would maintain the equipment as needed. Lack of a maintenance agreement may increase agency costs if significant equipment break downs or failures are experienced.

Funding

The following table shows program funding, by source, for the base year and for the 2013 biennium as recommended by the Governor.

Program Funding	Program Funding Table					
	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
01000 Total General Fund	\$ 3,424,368	91.8%	\$ 3,664,856	91.8%	\$ 3,682,874	91.8%
01100 General Fund	3,424,368	91.8%	3,664,856	91.8%	3,682,874	91.8%
02000 Total State Special Funds	307,742	8.2%	326,068	8.2%	327,687	8.2%
02034 Earmarked Alcohol Funds	307,742	8.2%	326,068	8.2%	327,687	8.2%
Grand Total	\$ 3,732,110	100.0%	\$ 3,990,924	100.0%	\$ 4,010,561	100.0%

The division is funded primarily with general fund (91.8%). State special revenue from earmarked alcohol funds provides the balance of the division's funding (8.2%) and supports certification, equipment maintenance, and training of law enforcement in the use of breath testing equipment.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	3,424,368	3,424,368	6,848,736	93.21%	3,732,110	3,732,110	7,464,220	93.29%
Statewide PL Adjustments	187,824	205,807	393,631	5.36%	206,150	225,752	431,902	5.40%
Other PL Adjustments	162,190	162,190	324,380	4.41%	162,190	162,190	324,380	4.05%
New Proposals	(109,526)	(109,491)	(219,017)	(2.98%)	(109,526)	(109,491)	(219,017)	(2.74%)
Total Budget	\$3,664,856	\$3,682,874	\$7,347,730		\$3,990,924	\$4,010,561	\$8,001,485	

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
FTE	Fiscal 2012				Fiscal 2013				Total Funds
	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	
Personal Services				312,402					311,435
Vacancy Savings				(114,091)					(114,051)
Inflation/Deflation				(29,825)					(7,077)
Fixed Costs				37,664					35,44
Total Statewide Present Law Adjustments	\$187,824	\$18,326	\$0	\$206,150		\$205,807	\$19,945	\$0	\$225,75
DP 3201 - FSD Equipment (OTO/BIEN)	0.00	150,000	0	150,000	0.00	150,000	0	0	150,00
DP 3202 - FSD Base Adjustment	0.00	12,190	0	12,190	0.00	12,190	0	0	12,19
Total Other Present Law Adjustments	0.00	\$162,190	\$0	\$162,190	0.00	\$162,190	\$0	\$0	\$162,19
Grand Total All Present Law Adjustments	0.00	\$350,014	\$18,326	\$368,340	0.00	\$367,997	\$19,945	\$0	\$387,94

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

- o **Pay Plan Exceptions - No**
- o **Program Specific Obstacles** - Jobs within this program are highly skilled and scientific. Pools are often small, the labor market is usually national and/or regional, and professional expertise often comes with a high price tag. Offering training assignments and proficiency agreements impacts staff workloads and turnaround time to local law enforcement agencies.
- o **Vacancy** - Turnover has resulted due to the retirement of a long term employee. A temporary promotion was offered to an employee. Workload within the section was prioritized and workloads increased resulting in additional overtime to staff.
- o **Legislatively Applied Vacancy Savings** - A number of positions were held open extensively prior to recruitment and selection.
- o **Pay/Position Changes** - The following pay increases were funded within the existing budget: forensic scientist reorganization and promotion, and an increase for elected official personal staff.

- **Retirements** - The division anticipates one employee will be eligible for retirement in the 2013 biennium. The anticipated compensated absence liability to the bureau will be \$61,969.

The statewide adjustment for personal services increases due to fully funding vacant positions and increases in health insurance costs.

DP 3201 - FSD Equipment (OTO/BIEN) - This decision package request a biennial, one-time-only, appropriation for purchasing new and/or replacement scientific equipment.

LFD COMMENT The division proposes purchase of the following replacement equipment:

- Liquid chromatograph with a mass spectrometer (LC/MS), Time of Flight (TOF) - \$185,000. The LC/MS is used to analyze chemical compounds. The equipment proposed for purchase is capable of analyzing a wider range of components
- Agilent 6400 series triple quad LC/MS/MS bundle - \$321,226 new or \$150,000 for used/demo. This equipment represents a new chromatographic technique that is more sensitive than existing techniques and per the division will result in lower overall costs because fewer samples will need to be sent to private labs for testing.

The average useful life of this type of equipment is five to seven years.

The funding requested in this decision package is not sufficient to buy both pieces of equipment as new items. The department will try to purchase used equipment.

DP 3202 - FSD Base Adjustment - This decision package requests funding for increased property management, travel, and training costs.

LFD COMMENT The division indicates that the union has negotiated a contract provision that all laboratory staff be allocated \$500 each for annual proficiency training not including the costs of travel, meals, and lodging that are also payable by the division.

New Proposals

The "New Proposals" table summarizes all new proposals requested by the Governor. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals											
Fiscal 2012						Fiscal 2013					
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
DP 55400 - 4% Personal Services Reduction FSD	32	(1.25)	(109,526)	0	0	(109,526)	(1.25)	(109,491)	0	0	(109,491)
Total	Total	(1.25)	(\$109,526)	\$0	\$0	(\$109,526)	(1.25)	(\$109,491)	\$0	\$0	(\$109,491)

DP 55400 - 4% Personal Services Reduction FSD - The executive recommends a 4% reduction of personal services funded with general fund. The reduction includes the permanent reduction of FTE.

**LFD
ISSUE**Program Impact Unknown

The agency has not identified the positions that will be included in the 4% personal services reduction, making it difficult to determine potential impacts. Staffing reductions in this program can impact its ability to meet desired turnaround time for testing and reporting results to law enforcement agencies. Additionally, there is nationwide competition for individuals with expertise in this field. In the past the legislature has provided funding to raise entry level pay rates to be competitive nationally and exempted this program from vacancy savings to avoid and address backlogs of work to be completed. The agency reports that during the 2011 biennium recruitment and retention were challenging and that it continues to be difficult to be competitive nationally for staff. Turn-around time in some sections of the lab increased during periods of staff vacancy and recruitment.

Agency Budget Comparison

The following table summarizes the total executive budget for the agency by year, type of expenditure, and source of funding.

Agency Budget Comparison		Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
Budget Item									
FTE	39.00	39.00	40.00	40.00	39.00	40.00	1.00	2.56%	
Personal Services	2,866,511	3,092,742	3,045,532	3,007,785	5,959,253	6,053,317	94,064	1.58%	
Operating Expenses	573,095	596,398	652,331	639,229	1,169,493	1,291,560	122,067	10.44%	
Debt Service	6,080	6,080	6,080	6,080	12,160	12,160	0	0.00%	
Total Costs	\$3,445,686	\$3,695,220	\$3,703,943	\$3,653,094	\$7,140,906	\$7,357,037	\$216,131	3.03%	
State Special	3,420,213	3,669,577	3,597,432	3,547,660	7,089,790	7,145,092	55,302	0.78%	
Federal Special	25,473	25,643	106,511	105,434	51,116	211,945	160,829	314.64%	
Total Funds	\$3,445,686	\$3,695,220	\$3,703,943	\$3,653,094	\$7,140,906	\$7,357,037	\$216,131	3.03%	

Agency Description

Mission Statement: To fairly balance the long-term interests of Montana utility and transportation companies and the customers they serve.

The Department of Public Service Regulation (PSR) regulates the operations of public utility and transportation industries that operate in the state. Five commissioners, elected from districts throughout Montana, form the Montana Public Service Commission (PSC) that oversees the Public Service Regulation Program (PSR). Each commissioner serves a four-year term.

Agency Highlights

Public Service Regulation Major Budget Highlights	
<ul style="list-style-type: none"> ◆ The agency budget increases less than 1% between the 2011 and 2013 biennia ◆ Present law adjustments are the only adjustments to the agency budget and increase the agency budget by \$465,665 total funds ◆ Funding for the agency comes primarily from state special revenue derived from a tax on regulated entities 	
Legislative Action Issues	
<ul style="list-style-type: none"> ◆ The agency 5% reduction plan lacks sufficient detail to enable the legislature to evaluate potential impacts of the reductions ◆ A request for computer equipment does not reflect a change in state policy changing from a four year replacement cycle to a five year replacement cycle ◆ Interim committee recommendation <ul style="list-style-type: none"> • The Legislative Finance Committee recommends that the budget starting point be the adjusted base less 5% 	

Agency Discussion

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following table lists the components of the 5% reduction plans for this agency. If the component is included in the executive budget the specific decision package is listed.

Total 5% Reduction Plan Identified by Agencies, By Division Included and Not Included in Executive Budget 2013 Biennium					
Program/DP Number/Description	FTE	General Fund	% Of Total	State Special Revenue	% Of Total
Public Service Regulation					
<i>Not Included in Executive Budget</i>					
Operating expenses reductions	\$0	0.0%	\$117,405	68.8%	
Personal services expense reductions	0	0.0%	53,208	31.2%	
Subtotal Not Included in Executive Budget	\$0	0.0%	\$170,613	100.0%	
Total Public Service Regulations	\$0	0.0%	\$170,613	100.0%	
Total Reduction Plan					
Included in Executive Budget	\$0	0.0%	\$0	0.0%	
Not Included in Executive Budget	0	0.0%	170,613	100.0%	
Total Agency Reduction Plan	0.00	\$0	0.0%	\$170,613	100.0%

*Federal funds would also be impacted. See the decision package description for further information.

LFD ISSUE

Assessment of Impact

The agency 5% reduction plan proposes reductions totaling \$170,613 in state special revenue support. The plan proposes reductions in operating and personal services costs but does not provide specific detail about which expenditures would be reduced or how savings in personal services costs would be achieved. As of this writing LFD staff had requested additional detail but was informed the commission had not specified how the reductions would be made and would probably not do so until after newly elected commissioners take office. Without further detail about the expenditures that would be reduced, it is not possible to determine the potential impact of these reductions upon consumers or regulated companies.

Options

- Request additional detail from the Public Service Commission (PSC) that will be in place beginning January 2011 and discuss the potential impacts of reductions upon consumers and regulated companies
- Require the PSC to report during the interim to the Legislative Finance Committee (LFC) about the impacts of implementation of the 5% reduction plan upon consumers and regulated companies

Funding

The following table shows program funding, by source, for the base year and for the 2013 biennium as recommended by the Governor.

Program Funding Table						
	Public Service Regulation Prog					
Program Funding	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
02000 Total State Special Funds	\$ 3,420,213	99.3%	\$ 3,597,432	97.1%	\$ 3,547,660	97.1%
02281 Public Service Commission	3,420,213	99.3%	3,597,432	97.1%	3,547,660	97.1%
03000 Total Federal Special Funds	25,473	0.7%	106,511	2.9%	105,434	2.9%
03011 Natural Gas Safety Pgm	25,473	0.7%	81,511	2.2%	80,434	2.2%
03374 Ngpsp One Call	-	-	25,000	0.7%	25,000	0.7%
Grand Total	\$ 3,445,686	100.0%	\$ 3,703,943	100.0%	\$ 3,653,094	100.0%

Public Service Regulation (PSR) is funded primarily by a fee that is levied on regulated companies, based on funding appropriated by the legislature for a specific fiscal year. Fees are deposited directly into a state special revenue account and are based upon a percentage of the gross operating revenue from all activities regulated by the commission for the calendar quarter of operation (69-1-402, MCA). The department also administers a small amount of federal pipeline safety grant funds.

Statutory Appropriations

The following table shows the total statutory appropriations associated with this agency. Because statutory appropriations do not require reauthorization each biennium, they do not appear in HB 2 and are not routinely examined by the legislature. The table is provided so that the legislature can get a more complete picture of agency operations and associated policy.

As appropriate, LFD staff has segregated the statutory appropriations into two general categories: 1) those where the agency primarily acts in an administrative capacity and the appropriations consequently do not relate directly to agency operations; and 2) those that have a more direct bearing on the mission and operations of the agency.

Statutory Appropriations					
Public Service Regulation					
Purpose	MCA #	Fund Source	Fiscal 2010	Fiscal 2012	Fiscal 2013
<i>Direct Bearing on Agency Operations</i>					
Telecom Performance Assurance Plans	69-3-870	SSR	\$75	\$0	\$0

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	0	0	0	0.00%	3,445,686	3,445,686	6,891,372	93.67%
Statewide PL Adjustments	0	0	0	0.00%	83,044	59,497	142,541	1.94%
Other PL Adjustments	0	0	0	0.00%	175,213	147,911	323,124	4.39%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$0	\$0	\$0		\$3,703,943	\$3,653,094	\$7,357,037	

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments					Fiscal 2012					Fiscal 2013				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds				
Personal Services					159,445					159,87				
Vacancy Savings					(97,532)					(97,620)				
Inflation/Deflation					(4,574)					(4,505)				
Fixed Costs					25,705					1,74				
Total Statewide Present Law Adjustments	\$0	\$83,044		\$0	\$83,044		\$0	\$59,497		\$0	\$59,49			
DP 2 - Pay Retirement Benefits	0.00	0	38,534	0	38,534	0.00	0	0	0	0				
DP 3 - Pipeline Safety Federal Award and Match	0.00	0	1,893	14,595	16,488	0.00	0	1,893	14,595	16,48				
DP 5 - Computer Replacement	0.00	0	0	0	0	0.00	0	6,955	0	6,95				
DP 6 - Building Rent	0.00	0	12,305	0	12,305	0.00	0	18,736	0	18,73				
DP 7 - One Call	0.00	0	0	25,000	25,000	0.00	0	0	25,000	25,00				
DP 8 - Pipeline Safety Engineer	1.00	0	41,443	41,443	82,886	1.00	0	40,366	40,366	80,73				
Total Other Present Law Adjustments	1.00	\$0	\$94,175	\$81,038	\$175,213	1.00	\$0	\$67,950	\$79,961	\$147,91				
Grand Total All Present Law Adjustments	1.00	\$0	\$177,219	\$81,038	\$258,257	1.00	\$0	\$127,447	\$79,961	\$207,40				

Agency Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

- **Vacancy** - Rate Analysts and Attorneys are difficult to hire/retain due to outside market competition. Normally, the PSC would make pay adjustments but is currently under the state pay freeze rules. Vacancies result in increased workload for other employees and slowed decision making process. In early 2010, the Public Service Commission (PSC) experienced large hiring pools of up to 35 applicants and of those, up to 50% were unqualified. The other 50% ranged from minimally qualified to very well qualified. Two more recent vacancies resulted in much lower applicant pools, ranging from 4 to 10 applicants. The PSC generally experiences low turnover but has several employees who have or are expected to retire in the current biennium. The PSC has traditionally had to recruit multiple times for attorney and rate analyst positions with the exception being early calendar year 2010. Employment offers are rarely rejected and a common reason is another position has been offered elsewhere. The PSC often hires recent graduates for attorney and rate analyst positions.
- **Legislatively Applied Vacancy Savings** - The legislature did not apply vacancy saving to the agency.
- **Pay/Position Changes** – Pay increases were given for three positions that were reclassified, a position change, two competitive promotions, and completion of a training assignment. New hire placement is within a range that is based on internal equity, new hire qualifications, and funding availability.
- **Retirements** – Twelve PSC employees are eligible for full retirement in the 2013 biennium. The compensated absence liability is estimated at \$131,695. The PSC anticipates that two employees will retire in the 2013 biennium at a cost of \$38,000. Staff retirements between now and the end of the 2013 biennium will cause a significant impact on the agency. The specialized nature of regulation and the broad types of companies (energy, telecommunications, water, etc.) regulated, coupled with the small staff does not allow for in depth cross training.

DP 2 - Pay Retirement Benefits - This decision package requests funding for staff retirement payouts. The PSC anticipates staff retirements in the next biennium resulting in leave payouts above normal personal services costs.

DP 3 - Pipeline Safety Federal Award and Match - This decision package requests funding for the pipeline safety federal grant that has been increasing. The federal grant supports inspection of natural gas pipeline construction, transmission integrity management, and operator qualifications as well as other related activities.

DP 5 - Computer Replacement - This decision package requests funding for replacement of computer equipment based upon a four year replacement cycle as recommended by the Information Technology Services Division, Department of Administration. If this funding is approved the PSC plans to replace five desktop computers (\$7,500) and one server (\$5,000) in FY 2012 and four desktop computers (\$5,000) and one server (\$5,000) in FY 2013. The funding requested in this decision package is the difference between the amount included in the base budget and the total estimated cost of replacement equipment.

**LFD
ISSUE**

Change in State Policy

This decision package does not reflect a change that occurred in state policy regarding replacement of computer equipment. Recently, state policy moved from a four year replacement cycle to a five year replacement cycle. Agency staff indicate that given this policy change no equipment would be purchased in FY 2012 and the equipment proposed for purchase in FY 2012 would be purchased in FY 2013. In order to reflect the change in state policy the legislature may wish to:

- Not approve increased funding in FY 2012
- Reduce FY 2012 funding by \$5,545 (the amount of equipment expenditures in the base year)
- Approve funding of \$6,955 for FY 2013 which when combined with the base funding level would provide a total of \$12,500 to purchase computer equipment

DP 6 - Building Rent - This decision package requests funding for increases in rent per the contract (3% per year) negotiated by the General Services Division, Department of Administration.

DP 7 - One Call - This decision package requests funding for the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, State Pipeline Safety, One Call Grant program. The purpose of the One Call grant program is to support efforts of state pipeline safety offices to reduce the incidence of damage to underground facilities during excavation.

DP 8 - Pipeline Safety Engineer - This decision package requests 1.00 FTE pipeline safety engineer and associated operating expenses. The Public Service Commission believes an additional pipeline safety engineer is warranted so the Commission can continue to fulfill its responsibility to effectively audit and monitor pipeline operators and to ensure the pipeline safety regulations are followed.

Elected Official Proposals

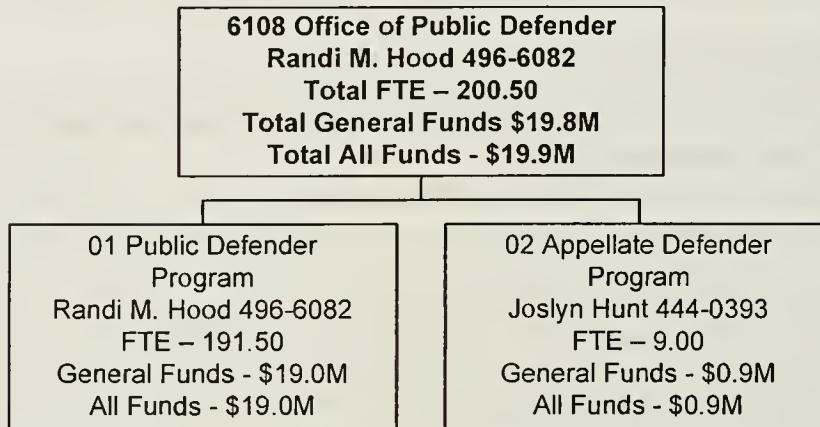
At the time of this writing, the commission had not determined whether or not any proposals not in the executive budget would be forwarded to the legislature. This determination will probably not be made until after new commissioners take office in January 2011.

Agency Budget Comparison

The following table summarizes the total executive budget for the agency by year, type of expenditure, and source of funding.

Agency Budget Comparison									
Budget Item	Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change	
FTE	200.50	200.50	216.50	216.50	200.50	216.50	16.00	7.98	
Personal Services	11,912,040	11,553,705	13,499,779	13,485,337	23,465,745	26,985,116	3,519,371	15.00	
Operating Expenses	7,959,536	7,938,224	8,265,055	8,212,813	15,897,760	16,477,868	580,108	3.65	
Equipment & Intangible Assets	21,118	123,370	80,396	72,895	144,488	153,291	8,803	6.09	
Total Costs	\$19,892,694	\$19,615,299	\$21,845,230	\$21,771,045	\$39,507,993	\$43,616,275	\$4,108,282	10.40	
General Fund	19,849,276	19,571,843	21,707,345	21,661,333	39,421,119	43,368,678	3,947,559	10.01	
State Special	43,418	43,456	137,885	109,712	86,874	247,597	160,723	185.01	
Federal Special	0	0	0	0	0	0	0	0	
Total Funds	\$19,892,694	\$19,615,299	\$21,845,230	\$21,771,045	\$39,507,993	\$43,616,275	\$4,108,282	10.40	

The following is the agency organizational chart, with contact information. The chart has been modified by the LFD to include the FY 2010 base budget FTE, general fund, and total funds for each program. As applicable, total agency proprietary funds and statutory appropriations, along with associated FTE, are also shown.



Agency Description

Mission Statement - The mission of the Office of the State Public Defender (OPD) is to ensure equal access to justice for the state's indigent. The statewide public defender system, created by passage of the Montana Public Defender Act contained in Title 47, MCA, required the new system to be operational by July 1, 2006. The Public Defender Commission is responsible for the design, direction, and supervision of the new system. The commission appoints the chief public defender, approves the strategic plan for the delivery of services, approves statewide standards for qualifications and training of public defenders, and approves the overall design of the statewide system.

The Office of State Public Defender administers the statewide public defender system and delivers public defender services in all courts in Montana for criminal and certain civil cases for an individual who is determined to be indigent per statutory provisions and is accused of an offense that could result in the person's loss of life or liberty if convicted. The statewide public defender system is supervised by the Public Defender Commission, an eleven member commission appointed by the Governor. The office is administratively attached to the Department of Administration with the exception of some functions as provided in statute (2-15-1028, MCA). The statewide public defender system also includes appellate defender functions.

Agency Highlights

Office of State Public Defender
Major Budget Highlights
<ul style="list-style-type: none"> ◆ The general fund biennial increase for the agency is 10.0% or \$3.9 million. When the executive request for the 2013 biennium is compared to the 2011 biennium appropriation level the increase is 7.8% or \$3.4 million, as the agency transferred funding from FY 2011 to FY 2010 and these funds were removed from actual FY 2010 expenditures in the main table <ul style="list-style-type: none"> • The general fund increase is split among statewide present law adjustments (\$1.4 million), present law adjustments (\$1.6 million and 10.00 FTE) and new proposals (\$0.6 million and 5.00 FTE) ◆ The agency requests 15.00 FTE supported by general fund for current caseloads, to reduce manager's caseloads, and for records management; and 1.00 FTE, accounts receivable technician funded from state special revenue
Legislative Action Issues
<ul style="list-style-type: none"> ◆ Major LFD Issues <ul style="list-style-type: none"> • FY 2009 and FY 2010 caseload data were extracted using two different methodologies. Due to these data inconsistencies it cannot be used for trend analysis • The agency plans to request a supplemental appropriation of \$850,000 general fund • The public defender program's case weighting system, while consistent with nationally recommended standards, is not based upon objective analysis of statistical data • Agency data supporting the request for 4.00 FTE to reduce manager's caseload does not clearly indicate the relationship between current caseloads, the request, and agency policy ◆ Interim Committee Recommendations <ul style="list-style-type: none"> • The Legislative Finance Committee recommends that the budget starting point be the adjusted base minus 5%

Agency Discussion

Goals and Objectives:

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the legislature may wish to review the following:

- o Goals, objectives and year-to-date outcomes from the 2011 biennium.
- o Critical agency goals, objectives, and anticipated outcomes and their correlation to the executive's budget request for the 2013 biennium.

The goals and objectives monitored during the 2011 biennium were specific to the public defender program and are discussed in the program level narrative portion of this analysis.

Agency Overview

This agency is responsible for the provision of public defense services statewide for individuals determined to be indigent (except certain cases where statute specifies that services are to be provided without determination of

indigence). This agency and the statewide system of public defense were created by legislation in the 2005 session. Implementation planning began in FY 2006 with the first full year of agency operations occurring in FY 2007. Representation of clients is provided in felony, misdemeanor, and certain civil cases.

Since its inception the agency has struggled to limit expenditures to the appropriations level and during the past interim faced the potential of additional costs due to litigation challenging certain agency policies. The agency also struggles to provide management data supporting its budget request and for legislative decision making. The executive has taken and/or proposed actions in this budget that illustrate some of these challenges:

- o Spending reductions ordered by the Governor in April 2010 in accordance with 17-7-140, MCA for this agency were about \$7,500 and less than 1% of the agency budget
- o A supplemental funding request will be presented to the legislature
- o The 2013 biennium budget request exempts this agency from the 4% general fund reduction in personal services (but not the 4% vacancy savings)
- o The executive proposes to add 16.00 FTE, primarily to reduce staff caseloads

In addition, the Legislative Finance Committee (LFC) and OPD have identified certain statutory changes for legislative consideration that have the potential to reduce workloads and office costs.

Various portions of this analysis provide the reader information about:

- o The agency financial position, supplemental appropriation, and budget requests
- o Caseload data necessary for use by management and to support budgetary requests
- o A study by American University that made a number of observations and recommendations on the operations of OPD
- o Litigation recently decided by the Supreme Court
- o Proposed legislation by the LFC to address the types of cases requiring OPD representation

The figure below summarizes the historical expenditures, proposed 2013 biennium funding, and FTE levels for the agency from FY 2007 through FY 2013.

Office of Public Defender Summary of General Fund Expenditures and Appropriations						
Fiscal Year	Authorized/ Requested FTE	Actual/Proj/ Requested Expenditures	% Change	Appropriations HB 2 and HB 13	Approp/Transfers Supplemental/Other	Total Funding
FY 2007	90.25	\$19,441,376		\$14,134,117	\$5,363,042	\$19,497,159
FY 2008	192.50	19,723,374	1.45%	19,727,489		19,727,489
FY 2009	192.50	20,489,456	3.88%	20,076,042	424,880	20,500,922
FY 2010	200.50	20,313,903	-0.86%	20,368,236		20,368,236
FY 2011	200.50	20,426,000	0.55%	19,579,399	850,000	20,429,399
FY 2012	216.50	21,707,345	6.27%			
FY 2013	216.50	21,661,333	-0.21%			

Appropriations HB 2 and HB 13 are per the Legislative Fiscal Report.
 FY 2008 and 2009 include expenditures of one-time-only (OTO) funds for case transition.
 FY 2009 includes a supplemental appropriation of \$292,000 and a transfer of \$132,880 from the personal services contingency fund.
 FY 2010 and 2011 appropriation levels are adjusted to reflect the fiscal year supplemental transfer of \$389,200 from FY 2011 to FY 2010.

As illustrated, the agency has received or requested supplemental appropriations for each of the three biennia since its inception. A large supplemental appropriation (\$5.4 million) was provided for the 2007 biennium and the agency's first year of operations. For this biennium, the agency's current estimate of its supplemental appropriation need is \$850,000.

The actual and projected expenditure levels for FY 2009 through FY 2011 are fairly constant at about \$20.4 million per year. The executive request for the 2013 biennium is almost \$1.4 million per year greater than FY 2010 actual expenditures. When the 2013 biennium executive request is compared to the 2011 biennium appropriation levels (as shown in the figure), general fund increases 8.6% or about \$3.4 million. This is less than the increase shown in the main table because funding that was transferred from FY 2011 to FY 2010 is removed from both the FY 2011 appropriation level and the FY 2010 base budget. When the 2013 biennium request is compared to anticipated 2011 biennium expenditures including the requested supplemental appropriation, general fund increases \$3.1 million or about 7.7% between the two biennia.

Office of State Public Defender General Fund								
Item	FY 2010	FY 2011	FY 2012	FY 2013	2011	2013	Difference	% Incr.
Appropriated/Requested	\$19,979,036	\$19,968,599	\$21,707,345	\$21,661,333	\$39,947,635	\$43,368,678	\$3,421,043	8.6%
Misc Base Adjustments	(130,445)	(7,556)			(138,001)		-	
Fiscal Year Transfer	389,200	(389,200)			-	-	-	
Transfer Expended	(388,515)	-	-	-	(388,515)	-	-	
Net Main Table	\$19,849,276	\$19,571,843	\$21,707,345	\$21,661,333	\$39,421,119	\$43,368,678	\$3,947,559	10.0%
Supplemental	389,200	460,800	-	-	850,000	-	-	
Total Expended/Request	\$20,238,476	\$20,032,643	\$21,707,345	\$21,661,333	\$40,271,119	\$43,368,678	\$3,097,559	7.7%
% Increase From Prior Year		-1.0%	7.7%	-0.2%				

The agency submitted budget request included general fund support that was \$5.4 million greater than the level included in the executive request. The executive budget does not include agency requests for:

- o A rate increase for contract attorneys from \$60 to \$75 per hour (\$2.5 million)
- o Attorney career ladder pay adjustments (\$1.9 million)
- o Death penalty cases (\$1.0 million)

The executive did approve the agency's request to be exempt from the application of the 4% general fund reduction in personal services but did not exempt the agency from the 4% vacancy savings requirement.

Caseload Determination

Caseload and workload data are commonly used to evaluate the level of resources needed by an agency or function to complete the tasks assigned. Use of caseload or work load data to determine the resource level needed increases the objectivity of distribution of resources and lessens the need for subjective justifications for the allocation of resources among functions. Additionally, since caseload is often a critical issue nationwide in litigation regarding the adequacy of public defense services and Montana's statewide system is largely the result of potential litigation, caseload data could be key to defending the state against any potential litigation regarding the adequacy of its system of providing public defense. For these reasons availability of consistent, applicable, caseload and workload data can be critical.

The agency has chosen to measure caseload by the number of new cases opened during the year. This statistic does not provide an indication of total system caseload because it measures only the inflow to the system and does not measure outflow (closed cases). Therefore, it is not possible to tell workload or changes in workload over time. The 2009 Legislature adopted a new statutory requirement that both inflow and outflow be reported to the Legislative Finance Committee during the interim. The agency complied with this reporting requirement but did not compile the FY 2009 and FY 2010 data using the same methodology for both years. As a result the information provided is inconsistent and cannot be used to determine what trend in caseload may be occurring. Of particular concern is that the FY 2010 data includes some level of duplication of case count because cases that were assigned to more than one attorney were counted for each attorney assigned rather than just once. Please refer to the narrative for the public defender program for additional details about caseload.

17-7-140, MCA Reductions

For this agency, the reductions ordered by the Governor in accordance with 17-7-140, MCA total \$7,479 for FY 2011. The reductions equate to less than 1% of the agency budget and include reductions in travel for the commission and fixed costs. Because this reduction is made in FY 2011, it does not permanently reduce the base budget of the agency.

American University Report

At the request of the Public Defender Commission, a study of the public defender system in Montana was completed. The report of the study, Assessment of the Initial Period of Operations of the Montana Statewide Public Defender System, was prepared by the Criminal Courts Technical Assistance Project and supported by a federal Bureau of Justice Assistance (BJA) grant. The study team's review of the system occurred between August 2008 and June 2009 and the final report is dated October 2009. This report is commonly referred to as the "American University" (AU) report.

The report provides 32 recommendations for improvements in the system. Many of the findings in this report are consistent with legislative concerns regarding data collection and budgeting. The report also identified other areas for system improvement, including some management functions. Four of these recommendations are discussed below. More information about the study may be found in a report titled Public Defender System dated February 24, 2010 that was prepared for the Legislative Finance Committee and is available online at: <http://leg.mt.gov/css/fiscal/reports/2009-2010-interim-reports.asp#mar2010>

The compete American University report can be found on the OPD website at: <http://publicdefender.mt.gov/AUeval.asp>

AU Recommendations

Recommendation 1 – “The OPD needs to provide detailed information to adequately describe the agency’s caseloads, dispositional processes, attorney workload, and related data that describes the agency’s operations and services being performed.”

The AU report points out that both the enabling legislation and Public Defender Commission standards and policy require this data to be collected and provided to various parties. However, the report indicates that this data in sufficient detail is not available and as a result no substantive data driven oversight is possible. The report also indicates there is evidence that some lawyers may have too many cases and that many of the commission standards are not followed. This AU report finding is partially related to data availability issues raised by legislative staff in the analysis of the 2011 biennium budget submission. The AU report also indicates that “the study has consistently found that the agency has not adequately documented its budget submission by informing the legislature of the nature of its caseload and accomplishments”.

**LFD
ISSUE**

Ongoing Issue

The narrative for the Public Defender Programs includes information about statutorily required reports that were provided to the Legislative Finance Committee and the inconsistency in the data provided. Please refer to that narrative for more information on this topic.

Recommendation 2 – “The case weighting system should be refined to provide a meaningful reflection of the work entailed in handling different types of criminal cases.”

Case weighting is a way to determine the relative workload of attorney staff by assigning a “weight” to represent the relative workload that each type of case represents. For example, a felony case is assigned a case weight of 1.00 units while a misdemeanor case is assigned a case weight of 0.50 units, indicating that the felony case theoretically takes twice as much work time as a misdemeanor case. The original case weighting system was designed by the agency in conjunction with labor unions. From an LFD staff perspective, there were two primary issues with the original case weighting system adopted by the agency, including: 1) the system weighted only newly assigned cases and did not

provide a weight to ongoing open cases; and 2) the system assigned the same weight to all felony cases regardless of complexity.

**LFD
COMMENT**

The agency recently modified this case weighting system to differentiate between the workload presented by various types of cases. The revised case weighting system provides different weights for various types of felony and misdemeanor offenses and provides for increased case weight when the case goes to trial, has over a specified number of charges, requires travel outside the assigned region, etc. These changes address the second staff issue that the same case weight was assigned to felony cases regardless of complexity. However, the first staff issue, that the system weights only new cases, is still applicable to the case weight system used by the agency.

The case weighting system was created through the labor negotiation process between agency management and the union representing attorneys as an effort to assess resource allocation and caseload limits. These case weights and caseloads are key factors in determining the level of human and financial resources needed for the system to adequately perform its mission. Additionally, since attorney workload is often a critical issue nationwide in litigation regarding the adequacy of public defense services and Montana's statewide system is largely the result of potential litigation, the use of a valid case load measurement may be key to defending the state against litigation regarding its system of providing public defense.

The caseload limits adopted by the agency through labor management negotiations are consistent with standards recommended by the National Advisory Commission on Criminal Justice Standards and Goals issued in 1973. These standards state that the annual caseload for a public defender should not exceed:

- o 150 felonies
- o 400 misdemeanors
- o 200 juvenile court
- o 200 mental health
- o 25 appeals

Because the national standards were adopted many years ago (1973) they do not include standards for dependency and neglect cases, death penalty cases, changes in practice since the standard was adopted, or local jurisdictional operating procedures. Additionally, as of this writing legislative staff was unable to determine whether or not the national standards were based upon statistical analysis or developed through some other process.

While the labor management group discussion and negotiation process is an attempt to adapt national standards to Montana's system this adaptation is based upon subjective considerations rather than objective analysis of data about how attorney's complete their work, the court processes that impact how that work is completed, and the amount of time it takes on average for an attorney to complete a particular function, type of work, or task. Thus, this adaptation of the case weight may or may not represent the work of attorneys in Montana's system as it currently exists. Lack of a statistical basis to support the assigned case weights means that the case weights may or may not be a valid representation of attorney workload. Since the case weighting system can be used to assign and assess workload of individual attorneys and the system as a whole; and, drive the allocation of resources, use of data that may not be valid could lead to erroneous assumptions about the level of resources needed.

**LFD
ISSUE**Not Based Upon Statistical Analysis

Because various types of cases (for example, a murder charge verse a misdemeanor driving under the influence charge) require different levels of resources case weighting is used to determine what constitutes the amount of work one employee working fulltime can complete. Therefore, it is instrumental in determining staff needs. There are two components of this determination:

- 1) How much work the various types of cases represent when compared against each other or the "weight" of that type of case; and
- 2) How many work hours each unit of weight equals so that a determination can be made of how much "weight" each full time attorney can complete

The case weighting system adopted by the public defender program is the result of negotiations between the collective bargaining unit and agency management. It is not the result of completion of time studies and statistical analysis and so may not accurately reflect the time and effort (or workload) that the "typical" case within that category takes. Additionally, 12.5 units per month (i.e. 8 felony driving under the influence or dangerous drug cases with one of these cases including three or four charges) is the standard measurement of a full caseload for 1.00 FTE, while consistent with national standards, there is no data to support that the assignment of 12.5 units per month based upon assignment of new cases (or case transfers) does in fact equate to a "full" case load for a 1.00 FTE position.

Thus, it appears that this determination of case weight and that a 1.00 FTE equivalent caseload is equal to 12.5 units is based upon subjective data rather than objective analysis of time study or other statistical data about how public defenders in Montana complete their work. Therefore, in order to have case weighting that is supported by objective, statistical data the legislature may wish to provide a means for an objective study to be done. There are essentially two options:

- 1) Have the agency hire a consultant, which would require the provision of funds by the legislature; and/or
- 2) Encourage the agency to actively search and compete for federal grant or earmarked funds for such a project. Given that the federal Department of Justice, Bureau of Justice Assistance funded the American University study, that federal funds were obtained by the Judicial Branch to study and develop such statistics for court workloads, and the uniqueness of Montana's statewide system of public defense, funding such a project may be appealing to federal agencies involved in the justice system.

Options

- o Provide the agency with funding to hire a consultant with relevant experience to design an objective case weighting system based upon statistical data
- o Encourage the agency to actively search and compete for a federal grants or earmarked funds for this project

Recommendation 5 – "The "minimal" caseload statutory requirement for the chief defender, contract manager, and regional deputy defenders should be reduced or eliminated."

Statute states that the chief public defender shall maintain a minimum client caseload as determined by the commission (47-1-202, MCA) and that each regional deputy public defender shall maintain a minimum client caseload as determined by the chief public defender (47-1-215, MCA). The statute as it currently exists provides leeway within the system management and oversight structure to determine the definition of a minimum client caseload. Definition of minimum caseload in terms of number of cases may be misleading since a misdemeanor case would generally take much less time and have less impact on completion of management duties than a felony murder case. Minimum caseload standards are of concern because the AU report indicates that large and or complex caseloads are contributing to failure of staff within the system to undertake, implement, and complete management functions within the system.

The commission has determined the minimum caseload for the chief public defender and since publication of the AU report the agency has adopted a policy defining managerial caseloads. Agency policy currently defines suggested

maximum caseloads for the regional public defenders in terms of the maximum hours of case work for each manager. The suggested maximum number of hours for case work for each varies between 600 and 1,400 hours per year.

**LFD
ISSUE**Request for FTE

The executive budget includes a request for 4.00 FTE attorneys so that manager caseloads can be reduced. The agency indicates that the request is made in order to address the AU recommendation. Please refer to the program level discussion of the decision package for a discussion of issues relates to this request.

Recommendation 7 – “A separate conflicts office should be maintained for all trial and appellate cases with the director reporting to the commission, not the chief defender.”

The AU report raises concerns with the organizational structure and its relationship to representation of clients in cases where individuals within the system may have a conflict of interest. Currently, either an attorney in another regional office or an attorney in private practice under contract may represent cases where there is a potential conflict of interest (such as multiple defendants in the case that are assigned public defenders). The AU report recommends that a separate office (organizational structure) reporting directly to the commission be implemented to resolve this concern. This would result in attorneys representing “conflict” cases reporting through a chain of command to the commission rather than the Chief Public Defender.

The Montana Supreme Court recently issued an opinion in litigation related to this issue (State of Montana vs. St. Dennis). The litigation alleged that a per se conflict of interest existed in a case where individuals were represented by attorneys working for different OPD regional offices. The majority opinion of the court did not find a per se conflict of interest existed but indicated that evaluation of conflict of interest must be done on a case by case basis. The court also referenced the strong precautions and safeguards in place at OPD that prevent the conflicts of interest from occurring, but stated that it was imperative that each OPD attorney adhere rigorously to the rules.

**LFD
COMMENT**

The legislature may wish to discuss with agency management what types of quality control measures have been implemented to provide assurance that there is adherence to policies, rules, and safeguards related to the conflict cases.

Additionally, the agency has requested legislation (LC 381) to amend statute so that the Chief Appellate Defender reports directly to the Public Defender Commission rather than the Chief Public Defender. If adopted, this statutory change would have minimal impact on the operations of the system, but it would potentially lessen the appearance that the Chief Public Defender has direct control over handling of cases upon appeal, particularly those cases alleging ineffective assistance of counsel by public defender program staff.

Committee Bill

The Legislative Finance Committee has proposed a committee bill (LC 182) that would remove the possibility of incarceration as a penalty for certain misdemeanors. Removal of the possibility of incarceration from certain offenses eliminates the need for a public defender to represent indigent individuals charged with these offenses and is one way that the legislature may be able to influence the caseload and costs of the system.

Budget Risks

As shown in the previous discussion there are a number of risk and pressures associated with this agency’s budget for the 2013 biennium. These risks include:

- o The agency has historically had difficulty maintaining expenditures within the appropriations level. Given that the executive request is lower than the agency submission and does not request funding for items such as equalizing attorney pay within the agency, it is likely that the agency will continue to be challenged to control expenditures to the appropriations level provided.

- o The net caseload data provided by the agency is not consistent between the two years resulting in an inability for trend analysis to be used in estimating caseload changes and how resource allocations should be changed to coordinate with caseload changes. It is not possible to use this data to determine whether the agency budgetary request is adequate or inadequate.
- o The case weighting system used internally for management of attorney workloads has not been statistically validated and shown to be representative of public defender work in Montana, increasing the risk that it does not appropriately represent the workload an attorney can complete and the number of attorneys needed.
- o Requests for staffing to decrease management caseloads are based upon management staff's assessment but are not specifically tied to agency policy for the maximum hours of casework for a manager. Additionally, the agency has not clearly stated what management tasks will be completed if these resources are provided. Failure to achieve management tasks increases the risk that there may be systemic issues that remain unresolved.
- o Statutory changes that create or remove the need for a public defender may impact agency caseload and need for financial resources.
- o The nature of this function and its past history in Montana and nationally increase the likelihood that litigation of some type may impact the system.

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

Total 5% Reduction Plan Identified by Agencies, By Division Included and Not Included in Executive Budget 2013 Biennium						
Program/DP Number/Description	FTE	% General Fund	State Special Of Total	% Revenue	% Of Total	
<u>Office of Public Defender</u>						
<i>Not Included in Executive Budget</i>						
Computer Hardware			\$2,171	100.0%		
4% Personal Services Reduction	unknown	\$501,301	50.6%	0	0.0%	
Contract Attorney Services		489,322	49.4%	0	0.0%	
Subtotal Not Included in Executive Budget		\$990,623	100.0%	\$2,171	100.0%	
Total Office of Public Defender		\$990,623	100.0%	\$2,171	100.0%	
<i>Total Reduction Plan</i>						
Included in Executive Budget		\$0	0.0%	\$0	0.0%	
Not Included in Executive Budget		990,623	100.0%	2,171	100.0%	
Total Agency Reduction Plan	0.00	\$990,623	100.0%	\$2,171	100.0%	

The 5% reduction plan for this agency includes reductions to the Public Defender Program and no reductions to the Appellate Defender Program. The plan reduces general fund support for personal services by 4% (\$501,301) and contracted attorney services by \$489,322. The plan also includes a \$2,171 reduction in state special revenue for computers.

The increase in staff (15.00 FTE) included in the executive budget would be partially offset by the reduction included in the 5% plan. The plan does not specify that any FTE would be reduced, but either FTE or contracted services would be impacted by this reduction. Assuming caseload did not decrease, the impact of the reduction would be an increase in the caseload for the remaining employees. Increased caseload could lead to delays in resolution of cases (and an increase in claims alleging a violation of the right to a speedy trial) and longer stays in jail for individuals waiting for trial. The agency indicates that it would reduce the number of cases and related expenditures for contract attorneys and shift this workload to internal attorneys to the extent possible or vice versa if personal services are reduced rather than contract

services. When internal attorney capacity reached its limit and funding is not available for contract attorneys, the agency would delay intake of new cases.

Agency Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

- o **Labor Market Experience** - The agency has an on-going recruitment effort to establish an applicant pool for use as openings occur statewide. Over the last year an increase in applicants for entry level positions has been seen. However, difficulty in recruiting for experienced criminal defense attorneys and appellate attorneys continues. Over the last biennium the agency filled approximately 59 attorney positions or 56% of the total FTE for attorneys (104.75 FTE). Of these, 41 were new hires to the agency, with 24 hired at the entry salary who met the minimum qualifications but had no experience as attorneys. 18 positions were filled by individuals working for the agency in another city who desired a different location. Factors contributing to attorney turnover include: salaries are not at market or competitive rates, many attorneys view defender positions as temporary jobs in their career, there is high stress and caseloads, many attorneys find working with indigent clients difficult, turnover in offices where staff were previously employed by counties, pay freezes, and increases in insurance benefit costs. In the last year, the agency made job offers to two candidates who rejected the job offer because they were offered other opportunities substantially above. Due to the economy in Montana the agency has seen an increase in applicant pools for staff support positions (legal assistants, information technology support, and investigators) with many exceeding the qualification being sought.
- o **Pay Philosophy** - 148 positions or 74% of the agency is represented by collective bargaining agreements. Under these agreements the agency can place individuals into a pay range dependent upon relevant experience levels. Under the terms and conditions of the collective bargaining agreement the agency has established pay adjustments based upon relevant experience of incumbents. The agency will continue to work with the American Federation of State County and Municipal Employee (AFSCME) to fine tune the career ladder and recognition of relevant experience in the ability to recruit and retain a qualified workforce. The agency recently conducted a salary survey of cities and counties (where the agency has public defender offices) and state agency attorneys and would like to establish new market pay rates. The agency will also be eligible to participate in the John R. Justice Loan Forgiveness Program to assist employees who have outstanding student loans.
- o **Obstacles** – The agency believes that once individuals get experience the likeliness of them being marketable to other employment opportunities leaves the agency in a position of being a training ground for attorneys. Through the efforts of the collective bargaining process the agency adjusted salaries for attorneys, investigators, and support staff. The agency has not made any adjustments to any group not represented by a collective bargaining agreement. However, to be competitive the agency states it must be proactive in compensating non bargaining unit employees appropriately. Currently the agency has 15 attorneys designated as exempt personal staff. One of these individuals has not had a salary increase since November 2006 and 14 have not received a salary increase since September 2008. In addition, the agency appellate attorneys and managing attorneys are not represented by the collective bargaining agreement. These 15 individuals will also need to be addressed proactively to ensure internal equity with all attorney staff.

Funding

The following table summarizes funding for the agency, by program and source, as recommended by the Governor. Funding for each program is discussed in detail in the individual program narratives that follow.

Total Agency Funding 2013 Biennium Budget					
Agency Program	General Fund	State Spec.	Grand Total	Total %	
01 Office Of Public Defender	\$ 41,171,415	\$ 247,597	\$ 41,419,012	94.96%	
02 Office Of Appellate Defender	\$ 2,197,263	\$ -	\$ 2,197,263	5.04%	
Grand Total	\$ 43,368,678	\$ 247,597	\$ 43,616,275	100.00%	

The agency is funded primarily by the general fund. A small amount of state special revenue from reimbursements for services provided is also available to the agency.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	19,849,276	19,849,276	39,698,552	91.54%	19,892,694	19,892,694	39,785,388	91.54%
Statewide PL Adjustments	725,713	685,037	1,410,750	3.25%	782,295	716,619	1,498,914	3.25%
Other PL Adjustments	800,494	811,391	1,611,885	3.72%	838,379	846,103	1,684,482	3.72%
New Proposals	331,862	315,629	647,491	1.49%	331,862	315,629	647,491	1.49%
Total Budget	\$21,707,345	\$21,661,333	\$43,368,678		\$21,845,230	\$21,771,045	\$43,616,275	

Supplemental Appropriation

The executive will seek a supplemental appropriation of \$850,000 (about \$669,000 for the public defender and \$181,000 for the appellate defender). The agency cites the increase in the vacancy savings rate from 4% to 7% and application of a 2% across the board reduction in funding for the 2011 biennium as factors that reduced funding for the agency to a level that was not adequate to support the amount of work required of the agency. In June 2010 the agency moved a total of \$499,200 general fund from FY 2011 to FY 2010 to fund cost overruns in the base year. Of this amount, \$400,000 was for the Public Defender Program and \$99,200 for the Appellate Defender Program. The Appellate Defender Program expended the entire \$99,200. However, the Public Defender Program expended only \$290,000 of the \$400,000 transferred. The Office of Budget and Program Planning later retransferred the unexpended \$110,000 to FY 2011.

In the fall of 2009 the department estimated that the potential deficit for FY 2010 was about \$1 million. Assuming a similar deficit in FY 2011 the biennial cost overrun was estimated at about \$2 million. The agency identified and implemented four expenditure mitigation strategies, including: 1) increasing funding sources; 2) reduction of expenditures; 3) increasing productivity; and, 4) reducing services. Examples of items that fall into these categories are: obtaining federal grant funds for a records management project, reorganization of central office functions and creation of a major crime unit, utilizing more internal resources and fewer contract resources; and exploration of ways to limit or minimize involvement in certain types of cases. The end result of the agency efforts to mitigate cost overruns is a decrease in the estimated supplemental appropriation from about \$2 million to \$850,000, or more than 50%.

Executive Recommended Legislation

The Public Defender Commission has requested several bill drafts that may have some impact on system caseload and costs. Commission requested legislation with potential fiscal impacts include:

- o Allow recovery of public defender costs in certain cases – The agency proposes that statute allow for the recovery of costs in guardianship and commitment cases where the respondent has available financial resources
- o Allow for flat fee public defender contracts in certain situations – The agency proposes that statute allow for flat fee contracts for specialty courts and consortiums if approved by the Public Defender Commission

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison									
Budget Item	Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change	
FTE	191.50	191.50	205.50	205.50	191.50	205.50	14.00	7.31%	
Personal Services	11,399,342	10,980,333	12,768,098	12,754,484	22,379,675	25,522,582	3,142,907	14.04%	
Operating Expenses	7,595,524	7,726,874	7,894,595	7,848,544	15,322,398	15,743,139	420,741	2.75%	
Equipment & Intangible Assets	21,118	123,370	80,396	72,895	144,488	153,291	8,803	6.09%	
Total Costs	\$19,015,984	\$18,830,577	\$20,743,089	\$20,675,923	\$37,846,561	\$41,419,012	\$3,572,451	9.44%	
General Fund	18,972,566	18,787,121	20,605,204	20,566,211	37,759,687	41,171,415	3,411,728	9.04%	
State Special	43,418	43,456	137,885	109,712	86,874	247,597	160,723	185.01%	
Federal Special	0	0	0	0	0	0	0	n/a	
Total Funds	\$19,015,984	\$18,830,577	\$20,743,089	\$20,675,923	\$37,846,561	\$41,419,012	\$3,572,451	9.44%	

Program Description

The Office of State Public Defender administers the statewide public defender system that delivers public defender services in all courts in Montana for criminal and certain civil cases for an individual who is determined to be financially unable to retain private counsel and who is accused of an offense that could result in the person's loss of life or liberty if convicted. The office administers the statewide public defender system that is supervised by the Public Defender Commission. The office is administratively attached to the Department of Administration but has authority in law to provide administrative functions as determined by the commission.

The Public Defender Commission is responsible for the design, direction, and supervision of the system. The commission appoints the chief public defender, approves the strategic plan for the delivery of services, and approves statewide standards for qualifications and training of public defenders.

Program Highlights

Office of Public Defender Program
Major Budget Highlights
<ul style="list-style-type: none"> ◆ When compared to the 2011 biennium appropriation level, the biennial increase in funding is 7.8% (\$3 million) The biennial comparison in the main table does not reflect actual expenditures, as it removes FY 2011 appropriations that were expended in FY 2010 ◆ General fund support for the program increases due to statewide present law adjustments and requests for staffing increases (13.00 FTE)
Major LFD Issues
<ul style="list-style-type: none"> ◆ The agency plans to request a supplemental appropriation of about \$669,000 general fund for this program ◆ FY 2009 and FY 2010 caseload data were extracted using two different methodologies. Due to these data inconsistencies it cannot be used for trend analysis ◆ The agency has not provided statistical data to support its request for 4.00 FTE attorneys so that manager caseloads may be reduced

Program Narrative

The agency plans to request a supplemental appropriation of about \$669,000 for the 2011 biennium. FY 2010 general fund expenditures were about \$19.3 million and exceeded the appropriation level by about \$290,000. This amount of funding was transferred from FY 2011 appropriations to FY 2010 appropriations. The program expects FY 2011 expenditures to exceed the amount of appropriation that remains, resulting in a further supplemental appropriation. The agency cites the application of a 2% across the board reduction in funding and increase in vacancy savings from 4% to 7% as factors resulting in the need for a supplemental appropriation. Additional discussion of the supplemental appropriation request is included in the agency narrative.

The program budget comparison table shows general fund for the program increasing 9% or \$3.4 million between the two biennia. When the 2013 biennium executive budget is compared to the 2011 biennium appropriation level the increase between the two biennia is 7.8% or (\$3.0 million). The increase between the two biennia is lower when compared to the 2011 biennium appropriation level because the comparison above removes funding (\$290,000) that was transferred from FY 2011 to FY 2010 from both the FY 2011 appropriation and the FY 2010 base budget.

Goals and Objectives

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy.

2011 Biennium Goals

The following provides an update of the goals monitored by the LFC during the 2011 biennium.

Goal 1 – Provide that public defender services are delivered by qualified and competent counsel.

- o Successes
 - The agency revised the process and target completion dates for employee attorney appraisals and contract attorney proficiency exams
- o Challenges
 - Completion of performance appraisals and proficiency exams within target completion dates

Goal 2 – Caseload and collection data reporting per 47-1-201(9)(a), MCA

- o Successes
 - Reports were submitted to the Legislative Finance Committee by the statutory deadline

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

The 5% reduction plan for this agency includes only reductions to this program. The plan reduces general fund support for personal services by 4% (\$501,301) and contracted attorney services by \$489,322. The plan also includes a \$2,171 reduction in state special revenue for computers.

Assuming caseload did not decrease, the impact of the reduction would be an increase in the caseload for the remaining employees. Increased caseload could lead to delays in resolution of cases and longer stays in jail while waiting for trial. The agency indicates that it would reduce the number of cases and related expenditures for contract attorneys and shift this workload to internal attorneys to the extent possible or vice versa if personal services are reduced rather than contract services. When internal attorney capacity reached its limit and funding is not available for contract attorneys the agency would delay intake of new cases.

Caseload

Caseload and workload data are commonly used to evaluate the level of resources needed by an agency or function to complete the tasks assigned. Use of caseload or work load data to determine the resource level needed increases the

objectivity of distribution of resources and lessens the need for subjective justifications for the allocation of resources among functions. For these reasons availability of consistent, applicable, caseload and workload data can be critical. The public defender office has chosen to use the number of new cases to the system as a measure to determine resource need. However, the number of new cases entering the system may not be representative of the total caseload including case closures and the ongoing resource needs to complete cases that remain open. Legislative concerns about the available caseload data and statistics about total caseload (as opposed to new cases) led to inclusion of specific caseload reporting requirements and timelines in HB 676 from the 2009 session. The provisions of this statute are codified in 47-1-201(9)(a), MCA, and requires that the agency report:

- o data for both employee and contract attorneys
- o the number of new cases opened
- o the number of cases closed
- o the number of cases that remain open and active
- o the number of cases that remain open but are inactive
- o the average number of days between case opening and closure for each case type
- o the amount of funds collected as reimbursement for services rendered, including:
 - the number of cases for which a collection is made
 - the number of cases for which an amount is owed
 - the amount collected
 - the amount remaining unpaid

The information contained in the reports submitted in accordance with this statutory requirement is summarized in the figure below.

OPD Summary of Data Required Reports Per 47-1-201(9)(a)						
Caseload Data						
Category	FY 2008 Ending Bal	FY 2009 Opened	FY 2009 Closed	FY 2009 Inactive	FY 2009 Active	FY 2009 End Balance Total
Employees	8,096	18,924	17,553	1,937	7,550	9,487
Contractors	8,770	9,144	11,858	1,178	4,878	6,056
Total	16,866	28,068	29,411	3,115	12,428	15,543
				change change	number percent	(1,323) -7.8%
FY 2009 Ending Bal						
Category	FY 2009 Ending Bal	FY 2010 Opened	FY 2010 Closed	FY 2010 Inactive	FY 2010 Active	FY 2010 End Balance Total
Employees	10,532	21,072	18,196	3,065	10,343	13,408
Contractors	6,689	6,931	6,508	1,394	5,718	7,112
Total	17,221	28,003	24,704	4,459	16,061	20,520
				change change	number percent	3,299 19.2%
Note: FY 2009 ending and FY 2010 beginning caseloads are different. The OPD used different criteria to prepare FY 2010 report than was used for the FY 2009 report. FY 2010 is a duplicated count, a case may have been counted multiple times if more than one attorney was assigned to the case.						
FY 2009 Average Numbers of Days Open by Case Type						
Case Type	Days	Months*	% of Year	Days	Months*	% of Year
Criminal	240	.8.0	65.8%	242	8.1	66.3%
Guardianship	256	8.5	70.1%	220	7.3	60.3%
Involuntary Commitment	100	3.3	27.4%	89	3.0	24.4%
Juvenile	239	8.0	65.5%	250	8.3	68.5%
Dependent and Neglect	411	13.7	112.6%	445	14.8	121.9%
Courts of Limited Jurisdiction	164	5.5	44.9%	154	5.1	42.2%
*Estimated - equals days divided by 30						
Judgments and Assessments						
Item	FY 2007	FY 2008	FY 2009	FY 2010		
Accounts Receivable Balance	\$27,557	\$114,124	\$235,791	\$481,939		
No. of Clients with Balance	56	278	643	1,433		
Calculated Ave. Balance	\$492	\$411	\$367	\$336		

**LFD
ISSUE**Consistency of Data

The top portion of Figure 3 shows the caseload data for FY 2009 and FY 2010, including the caseload at the beginning of the year, and the number of cases opened, closed, and remaining at year end. The data prepared by the agency indicates that the ending FY 2009 caseload was 15,543 and that the caseload at the beginning of FY 2010 was 17,221, a difference of 1,678 cases for the same point in time. As of this writing OPD staff has identified two reasons for this difference: 1) a different database field was used to extract the FY 2010 data than the FY 2009 data; and, 2) FY 2010 data is duplicated because if multiple attorneys were assigned to the same case the case is counted multiple times, but the FY 2009 data included a case only once regardless of the number of attorneys assigned to the case.

**LFD
ISSUE CONT.**

Because the data extraction between the two years is inconsistent and FY 2010 data includes a duplicated count of cases, conclusions about the overall or net caseload of the OPD cannot be made based upon this data.

For agency purposes the OPD measures caseload by the number of new cases entering the system each year. The data included in Figure 3 indicates that 28,068 cases were opened in FY 2009 and 28,003 in FY 2010. This is a decrease of 65 cases or about one quarter of 1%. The actual decrease in new cases is probably larger than this when the impact of the duplication of case counts included in the FY 2010 data is considered.

The legislature may wish to consider legislation to:

- o Specify that the data submitted include an unduplicated count of cases
- o Modify the dates specified in statute for reporting to the Legislative Finance Committee because the dates in statute are specific to the 2011 biennium

The center portion of Figure 3 contains data about the average number of days and months between case opening and case closure by type of case. This data provides some information about the frequency of turnover for cases. Significant changes may be an indicator of the existence of systemic problems. This data may also be an indicator of system efficiency or inefficiency. Generally, the number of days open by case type did not vary greatly between the two years. Average number of days open for guardianship, involuntary commitment, and courts of limited jurisdiction cases decreased while increases were seen in this statistic for criminal, juvenile, and dependent and neglect cases.

The lower portion of Figure 3 contains data about judgments and assessments. The dollar value of accounts receivable and number of clients with a balance has increased while the calculated average balance per client has decreased. The average balance per client has decreased from \$492 in FY 2007 to \$336 in FY 2010.

Funding

The following table summarizes funding for the agency, by program and source, as recommended by the Governor. Funding for each program is discussed in detail in the individual program narratives that follow.

Program Funding	Program Funding Table					
	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
01000 Total General Fund	\$ 18,972,566	99.8%	\$ 20,605,204	99.3%	\$ 20,566,211	99.5%
01100 General Fund	18,972,566	99.8%	20,605,204	99.3%	20,566,211	99.5%
02000 Total State Special Funds	43,418	0.2%	137,885	0.7%	109,712	0.5%
02250 Court Ordered Sentencing Costs	43,418	0.2%	137,885	0.7%	109,712	0.5%
Grand Total	\$ 19,015,984	100.0%	\$ 20,743,089	100.0%	\$ 20,675,923	100.0%

The Office of the Public Defender is funded primarily from the general fund. A small amount of state special revenue from collection of reimbursement for services also supports the program.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	18,972,566	18,972,566	37,945,132	92.16%	19,015,984	19,015,984	38,031,968	91.82%
Statewide PL Adjustments	637,782	597,607	1,235,389	3.00%	694,364	629,189	1,323,553	3.20%
Other PL Adjustments	662,994	680,409	1,343,403	3.26%	700,879	715,121	1,416,000	3.42%
New Proposals	331,862	315,629	647,491	1.57%	331,862	315,629	647,491	1.56%
Total Budget	\$20,605,204	\$20,566,211	\$41,171,415		\$20,743,089	\$20,675,923	\$41,419,012	

Present Law Adjustments

The “Present Law Adjustments” table shows the changes to the adjusted base budget proposed by the executive. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
FTE	Fiscal 2012				Fiscal 2013				
	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services				1,030,081					1,017,890
Vacancy Savings				(497,193)					(496,690)
Inflation/Deflation				(28,678)					(27,073)
Fixed Costs				190,154					135,062
Total Statewide Present Law Adjustments	\$637,782	\$56,582	\$0	\$694,364		\$597,607	\$31,582	\$0	\$629,189
DP 4 - Additional FTE to Support Caseload - Public Defend	8.00	509,521	0	509,521	8.00	.483,601	0	0	483,601
DP 9 - Accounts Receivable Technician	1.00	0	37,885	0	37,885	1.00	0	34,712	0
DP 10 - Computers/Servers/Printers	0.00	153,473	0	153,473	0.00	196,808	0	0	196,808
Total Other Present Law Adjustments	9.00	\$662,994	\$37,885	\$0	\$700,879	9.00	\$680,409	\$34,712	\$0
Grand Total All Present Law Adjustments	9.00	\$1,300,776	\$94,467	\$0	\$1,395,243	9.00	\$1,278,016	\$66,294	\$0
									\$1,344,310

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

- o **Pay Plan Exceptions** – not applicable
- o **Program Specific Obstacles** – There is high turnover, particularly in attorney positions. Salaries are not at market or competitive within state government (although the agency’s career ladder is ameliorating that issue), many attorneys view defender positions as temporary jobs in their career, high stress and caseloads likely contribute to the problem, many attorneys and staff find working with indigent clients difficult, the creation of a statewide public defender system in July 2006 has created additional turnover in offices that were previously employed by counties, pay freezes for the last two years, and increases in insurance benefit costs.
- o **Vacancy** - The agency has high turnover of attorneys, which increases caseload of remaining staff and creates additional stress to get work done in a timely manner under very stringent requirements.
- o **Legislatively Applied Vacancy Savings** – A 7% vacancy savings rate was applied but not achieved. The vacancy rate for the program was less than half of 1%.

- o **Pay/Position Changes** - Criminal Defense Investigators were reclassified to a pay band six in July 2009 with agreement by the employees and union that the pay adjustments be delayed until June 2011. A review is being conducted of support staff at this time to determine if any reclassifications should occur based upon the duties and responsibilities that have changed since creation of the office.
- o **Retirements** - The number of employees eligible for retirement is unknown at this time. The agency was established in July 2006 and employees who have been with the agency since then may have other city, county, or state employment unknown to the agency. Thus, the agency is not able to determine how many employees are eligible for retirement benefits. None that would impact program operations are anticipated. Vacancies that may occur can be addressed through the normal recruitment and selection processes.

DP 4 - Additional FTE to Support Caseload - Public Defend - This decision package requests funding for 8.00 FTE and related costs to support the program's workload. The positions requested include 3.00 FTE attorneys, 1.00 FTE investigator, and 4.00 FTE administrative support.

**LFD
ISSUE**
Inconsistent Caseload Statistics

Please refer to the program narrative for a discussion of caseload statistics. The lack of consistent caseload data prevents the analysis of caseload or workload trends that may be occurring in the system. Without this data it is difficult to objectively evaluate the level of resources needed to accomplish the agency task.

DP 9 - Accounts Receivable Technician - This decision package requests state special revenue funding to support 1.00 FTE accounts receivable technician to account for the assessments and receipt of payments from clients for services provided.

DP 10 - Computers/Servers/Printers - This decision package requests funding to replace the agency's printers, servers, and computers.

**LFD
COMMENT**

The agency proposes replacement of 64 computers, 4 copiers, and 2 servers in FY 2012 and 97 computers, 3 copiers, and 2 servers in FY 2013. The request for computer replacement is based upon a five year replacement cycle.

New Proposals

The "New Proposals" table summarizes all new proposals requested by the Governor. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals										
Program	FTE	Fiscal 2012			Total Funds	FTE	Fiscal 2013			Total Funds
		General Fund	State Special	Federal Special			General Fund	State Special	Federal Special	
DP 3 - Records Management Function	01	1.00	46,229	0	46,229	1.00	43,031	0	0	43,031
DP 6 - Reduce Caseload for Managers	01	4.00	285,633	0	285,633	4.00	272,598	0	0	272,598
	Total	5.00	\$331,862	\$0	\$331,862	5.00	\$315,629	\$0	\$0	\$315,629

DP 3 - Records Management Function - This decision package request 1.00 FTE for records management. The agency received one time federal funds to do the initial inventory and file setup. The agency must store and retain files that contain attorney client notes and confidential communications in accordance with state record retention schedules. The agency indicates that tens of thousands of records must be maintained.

DP 6 - Reduce Caseload for Managers - This decision package requests 4.00 FTE for attorneys to provide a reduction in caseloads for attorneys that manage the work of other attorneys.

**LFD
ISSUE**
Request Not Supported by Statistical Data

This request for additional attorneys to reduce manager caseload is based upon management's evaluation of the cases assigned to each of the managing attorneys. The documentation provided to legislative staff does not provide an indication of the hours of work or case weight assigned to manager caseload. It is unclear how or if the number of cases assigned to each manager was converted to hours of work for comparison to agency policy that recommends limitation of manager caseloads to a certain number of hours per year. Without data such as this it is difficult to determine how manager caseloads compare to agency policy and the level of staffing needed to maintain manager caseloads at the hours established in policy. Additionally, the decision package narrative does not include information about the management functions that would be accomplished if additional staffing is provided. The figure summarizes by caseload limit and region the caseload of Regional Deputy Public Defenders and indicates which regions would receive additional staff if this proposal is approved.

Summary of Manager Caseloads Regional Deputy Public Defenders (RDPD) Grouped by Policy Limit for Maximum Caseload Hours			
Region	City	RDPD Caseload as of 1/31/10	New FTE
<i>Caseload limited to 600 hours</i>			
1 Kalispell		27	1.00
2 Missoula		19	
9 Billings		8	
<i>Caseload limited to 1000 hours</i>			
3 Great Falls		24	
4 Helena		72	1.00
5 Butte		23	
8 Bozeman		67	1.00
<i>Caseload limited to 1400 hours</i>			
6 Havre		55	
7 Lewistown		76	
10 Glendive		88	
11 Miles City		54	

Note: The fourth FTE would be used to reduce the caseload of a managing attorney in region 9

The legislature may wish to:

- o Require that the agency provide goals, objectives, and outcomes that would be achieved if this proposal is adopted and recommend that the Legislative Finance Committee monitor agency accomplishment during the 2013 interim
- o Require that the agency provide periodic reports to an appropriate interim committee comparing the caseload of managers in hours to the limit recommended in agency policy

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison	Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
Budget Item								
FTE	9.00	9.00	11.00	11.00	9.00	11.00	2.00	22.22%
Personal Services	512,698	573,372	731,681	730,853	1,086,070	1,462,534	376,464	34.66%
Operating Expenses	364,012	211,350	370,460	364,269	575,362	734,729	159,367	27.70%
Total Costs	\$876,710	\$784,722	\$1,102,141	\$1,095,122	\$1,661,432	\$2,197,263	\$535,831	32.25%
General Fund	876,710	784,722	1,102,141	1,095,122	1,661,432	2,197,263	535,831	32.25%
Total Funds	\$876,710	\$784,722	\$1,102,141	\$1,095,122	\$1,661,432	\$2,197,263	\$535,831	32.25%

Program Description

The Appellate Defender Program provides appeal services for indigent citizens.

Program Highlights

Office of Appellate Defender
Major Budget Highlights
<ul style="list-style-type: none"> ◆ When compared to the 2011 biennium appropriation level, the biennial increase in funding is 24.7% (\$435,465) The biennial comparison in the main table removes FY 2011 appropriations that were expended in FY 2010, showing a greater increase than a comparison of actual and requested expenditures in the 2011 biennium ◆ General fund support for the program increases due to request for an additional 2.00 FTE
Major LFD Issues
<ul style="list-style-type: none"> ◆ The agency plans to request a supplemental appropriation of about \$181,000 for this program

Program Narrative

The biennial comparison table shows funding for the program increasing 32.3% or \$536,000 between the two biennia. However, this comparison results in a larger increase than when comparing the 2013 biennium to 2011 biennium appropriation levels because funding (\$99,200) that was transferred from FY 2011 to FY 2010 decreased both the FY 2011 appropriation level and the FY 2010 base.

The figure below shows the number of cases by year for the Office of Appellate Defender, the expended or requested funding, and a calculated cost per case. Since FY 2007 when the appellate defender function became part of the new statewide public defender system the number of cases has decreased from 258 in FY 2007 to 183 in FY 2010, while the total cost and cost per case has increased. Figure 5 shows actual case activity for FY 2009 and FY 2010 and estimated case activity for FY 2011, including cases carried forward from the prior year, cases opened, cases closed, and cases remaining open at the end of the year. The case activity report illustrates that the number of cases carried forward increased between FY 2009 and FY 2010 and is expected to increase between FY 2010 and FY 2011. Program staff indicate that the following factors have or are influencing the cost and workload of the program:

- o Staff turnover and the increased time needed by inexperienced staff to complete work
- o An increase in the number of cases in which oral arguments must be presented to the Supreme Court
- o Prior to the statewide system the appellate defender program represented only felony cases and did not have responsibility for misdemeanor cases

Appellate Defender Caseload and Costs								
Year	Cases Opened			% Incr.	Expended Requested	Cost Per Case		% Incr.
	Appeals	PCR*	Writs	Total		% Incr.	Cost Per Case	
FY 2006					\$211,428		na	
FY 2007	230	18	10	258	782,606	270.2%	3,033	na
FY 2008	187	11	17	215	-16.7%	833,124	6.5%	3,875
FY 2009	197	17	18	232	7.9%	899,382	8.0%	3,877
FY 2010	170	4	9	183	-21.1%	974,538	8.4%	5,325
FY 2011				183	0.0%	1,067,068	9.5%	5,831
FY 2012				183	0.0%	1,102,141	3.3%	6,023
FY 2013				183	0.0%	1,095,122	-0.6%	5,984
								-0.6%

FY 2010 Includes a fiscal year transfer (supplemental appropriation) of \$99,200.
 FY 2011 amount is the appropriation level (per the Fiscal Report) plus requested supplemental appropriation of \$181,000
 *PCR is post conviction relief

Year	Beginning	Opened	Closed	Ending
FY 2009	56	232	215	73
FY 2010	73	183	77	179
FY 2011	179	53	27	205

The personal services narrative for this program indicates that attorneys in the Appellate Defender Program are paid less than those employed in the Public Defender Program and other state agencies and that only three staff members have been with the office for more than one year. Also, because this unit is not represented by a collective bargaining agreement the career ladder pay changes available to staff in the Public Defender Program were not available for appellate defender staff until recently. The executive budget does not include a request for funding to equalize attorney pay between the two programs in the agency. However, an additional 2.00 FTE are requested to support the current caseload.

The agency plans to request a supplemental appropriation for this program of about \$181,000 for the 2011 biennium. FY 2010 expenditures were about \$975,000 and exceeded the appropriation level by about \$99,200. This amount of funding was transferred from FY 2011 appropriations to FY 2010 appropriations. The program expects FY 2011 expenditures to exceed the amount of the appropriation that remains, resulting in the need to request a supplemental appropriation. The agency cites the application of a 2% across the board reduction in funding and increase in vacancy savings from 4% to 7% as factors resulting in the need for a supplemental appropriation. Additional discussion of the supplemental appropriation request is included in the agency narrative.

Funding

The following table summarizes funding for the agency, by program and source, as recommended by the Governor. Funding for each program is discussed in detail in the individual program narratives that follow.

Program Funding Table Office Of Appellate Defender						
Program Funding	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
01000 Total General Fund	\$ 876,710	100.0%	\$ 1,102,141	100.0%	\$ 1,095,122	100.0%
01100 General Fund	\$ 876,710	100.0%	\$ 1,102,141	100.0%	\$ 1,095,122	100.0%
Grand Total	\$ 876,710	100.0%	\$ 1,102,141	100.0%	\$ 1,095,122	100.0%

The Appellate Defender Program is supported entirely by the general fund.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	876,710	876,710	1,753,420	79.80%	876,710	876,710	1,753,420	79.80%
Statewide PL Adjustments	87,931	87,430	175,361	7.98%	87,931	87,430	175,361	7.98%
Other PL Adjustments	137,500	130,982	268,482	12.22%	137,500	130,982	268,482	12.22%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$1,102,141	\$1,095,122	\$2,197,263		\$1,102,141	\$1,095,122	\$2,197,263	

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
FTE	Fiscal 2012				Fiscal 2013				
	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services				112,698					112,698
Vacancy Savings				(25,015)					(25,015)
Inflation/Deflation				248					248
Total Statewide Present Law Adjustments	\$87,931		\$0	\$87,931		\$87,430		\$0	\$87,430
DP 11 - Additional FTE to Support Caseload - Appellate	2.00	137,500	0	137,500	2.00	130,982	0	0	130,982
Total Other Present Law Adjustments	2.00	\$137,500	\$0	\$137,500	2.00	\$130,982	\$0	\$0	\$130,982
Grand Total All Present Law Adjustments	2.00	\$225,431	\$0	\$225,431	2.00	\$218,412	\$0	\$0	\$218,412

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

- o **Pay Plan Exceptions - No**
- o **Program Specific Obstacles** – The Appellate Public Defender Program has difficulty attracting and retaining qualified workers due to disparity in resources and the volume of work they handle compared to other attorney positions posted. For example, the Appellate Public Defender Program access to the district court record is more restricted than is access for attorneys working for the Department of Justice. Consequently, attorneys leave for positions where they can make more money, have more resources, and perform less taxing work. The program also faces difficulty due to the pay freeze and not being under a collective bargaining unit. There is also an internal inequity within the agency.
- o **Vacancy** - The Appellate Public Defender Program in the last biennium had five individuals leave or approximately 62 percent of attorney staff. One attorney retired. Other attorneys have left because they have found higher paying jobs. In fact, all other state agencies pay their attorneys more than the appellate public defender attorneys are receiving. Since the Office of the Appellate Defender is located in Helena, it competes with other state agencies (including its own agency, the Office of the State Public Defender) in maintaining staff. The turnover has affected the productivity of the program. The high turnover in staff requires recruitment of new attorneys, which takes several months, and once attorneys are hired they are often inexperienced and cannot begin immediately with the larger complex cases. There are only three attorneys who have been employed for longer than one year. Since the Chief Appellate Defender focuses on management of the program her caseload is substantially reduced leaving the remaining two attorneys who have been with the program longer than one year with the larger cases. Newer attorneys take longer to complete case work on less complicated cases due to their inexperience. This results in fewer cases being closed each month.
- o **Legislatively Applied Vacancy Savings** - The program was unable to create a 7% vacancy savings because of the need to fulfill the mission of the program.
- o **Pay/Position Changes** - The appellate public defenders have not received position or pay changes.
- o **Retirements** - No employees in the Appellate Public Defender Program will be eligible for retirement in the 2013 biennium.

Statewide present law adjustments increase primarily due to the removal of one time only funding from the base budget and increases in health insurance costs.

DP 11 - Additional FTE to Support Caseload - Appellate - This decision package requests 2.00 FTE (1.00 FTE attorney and 1.00 FTE administrative support) to support current workload.

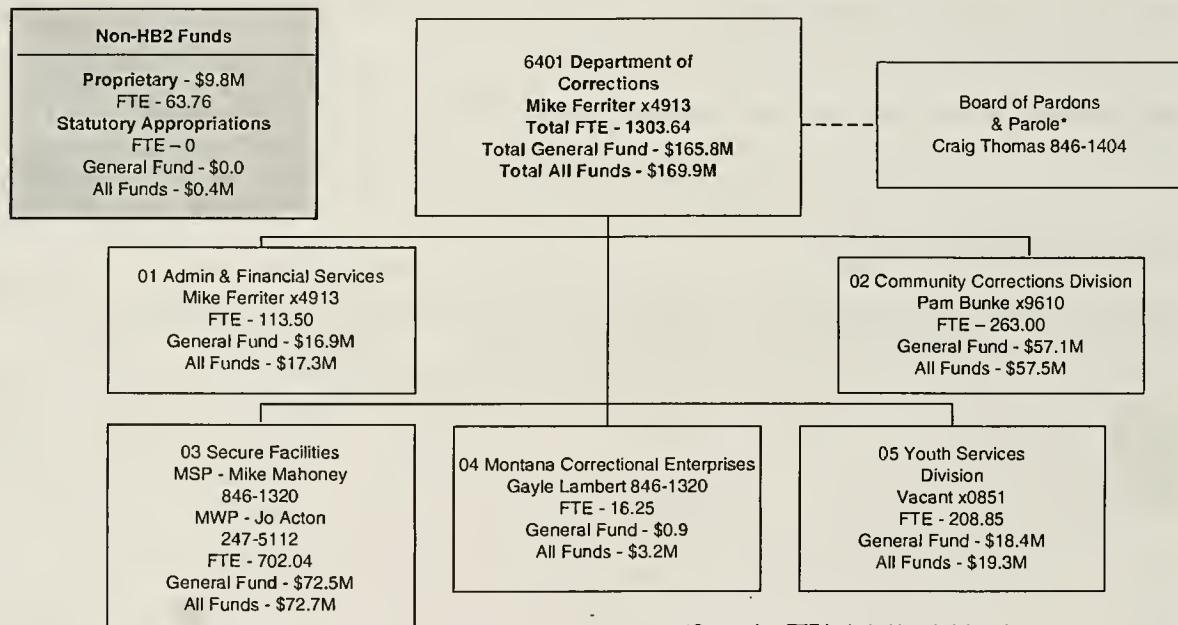
LFD COMMENT Please refer to the program narrative for a discussion of factors impacting program caseload and workload.

Agency Budget Comparison

The following table summarizes the total executive budget for the agency by year, type of expenditure, and source of funding.

Budget Item	Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
FTE	1,303.64	1,303.64	1,289.14	1,289.14	1,303.64	1,289.14	(14.50)	(1.11)
Personal Services	69,610,880	72,382,475	71,275,144	71,298,642	141,993,355	142,573,786	580,431	0.41
Operating Expenses	93,944,707	95,303,055	101,832,252	107,276,335	189,247,762	209,108,587	19,860,825	10.49
Equipment & Intangible Assets	201,078	207,507	687,078	245,078	408,585	932,156	523,571	128.14
Benefits & Claims	3,343,082	4,055,855	3,343,082	3,343,082	7,398,937	6,686,164	(712,773)	(9.63)
Transfers	2,848,950	2,124,917	2,848,950	2,848,950	4,973,867	5,697,900	724,033	14.56
Total Costs	\$169,948,697	\$174,073,809	\$179,986,506	\$185,012,087	\$344,022,506	\$364,998,593	\$20,976,087	6.10
General Fund	165,758,162	169,198,753	175,317,022	180,351,473	334,956,915	355,668,495	20,711,580	6.18
State Special	3,561,540	4,086,930	3,959,153	3,950,588	7,648,470	7,909,741	261,271	3.47
Federal Special	20,872	134,068	20,872	20,872	154,940	41,744	(113,196)	(73.06)
Other	608,123	654,058	689,459	689,154	1,262,181	1,378,613	116,432	9.22
Total Funds	\$169,948,697	\$174,073,809	\$179,986,506	\$185,012,087	\$344,022,506	\$364,998,593	\$20,976,087	6.10

The following is the agency organizational chart, with contact information. The chart has been modified by the LFD to include the FY 2010 base budget FTE, general fund, and total funds for each program. As applicable, total agency proprietary funds and statutory appropriations, along with associated FTE, are also shown.



Agency Description

Mission - The Montana Department of Corrections enhances public safety, promotes positive change in offender behavior, reintegrates offenders into the community, and supports victims of crime.

The Department of Corrections (DOC), authorized in section 2-15-2301, MCA, is directed in section 53-1-201, MCA, to "utilize at maximum efficiency the resources of state government in a coordinated effort to: 1) develop and maintain comprehensive services and programs in the field of adult and youth corrections; and 2) provide for the care, protection, and mental and physical development of youth alleged to be youth in need of supervision, or delinquent youth who are referred or committed to the department." The department's five programs are:

- o Administration and support services including the Director's Office, Health Services, Information Technology Services, Human Resources Division, Administrative and Financial Services Division, and the administratively attached Board of Pardons and Parole
- o Community Corrections Division including division administration; Treasure State Correctional Treatment Center (TSCTC); contracted pre-release centers, probation and parole; DUI Unit (Warm Springs Addictions Treatment and Change Program (WATCH)); Elkhorn and Nexus methamphetamine treatment centers, Missoula Assessment and Sanction Center (MASC); and the Sanction, Treatment, Assessment, Revocation, and Transition Center (START)
- o Secure Custody including Montana State Prison (MSP), Montana Women's Prison (MWP), contract beds including regional prisons in Great Falls and Glendive, and a privately operated prison (Crossroads Correctional Center) in Shelby
- o Montana Correctional Enterprises (MCE) including agriculture, ranching, industries, vocational education, food factory, license plate factory, fire crew, lumber processing, and inmate canteen
- o Youth Services Division including statewide juvenile community corrections functions, Riverside Youth Correctional Facility, the Transition Center, and Pine Hills Youth Correctional Facility

Agency Highlights

Department of Corrections Major Budget Highlights
<ul style="list-style-type: none"> ♦ Total funding for the department increases 6.1% or \$21 million <ul style="list-style-type: none"> • General fund support increases 6.2% or \$20.7 million primarily due to present law adjustment related to population increases, including \$10.1 million for additional community corrections beds mostly in prerelease settings and \$12.3 million for 164 additional prison beds and operating increases at state institutions • 6.00 FTE would be added for correctional officers at MWP (2.00 FTE funded by a reduction in overtime), mental health technicians at MSP (3.00 FTE), and the inmate canteen (1.00 FTE) • New proposal requests for equipment are offset by a 4% reduction in personal services that would eliminate 20.50 FTE positions ♦ The department estimates that the Average Daily Population (ADP) of offenders will increase: <ul style="list-style-type: none"> • 3.1% per year in male prison beds • 4.9% per year in alternatives to prison • 3.1% per year in prerelease • 1.9% per year in total
Legislative Action Issues
<ul style="list-style-type: none"> ♦ Major LFD Issues <ul style="list-style-type: none"> • The executive budget does not fund sufficient bed increases to house the projected increase in ADP • The departments population estimate maintains the 80/20 ratio of offenders supervised in community options verses prison • The positions included in the 4% personal services reduction have

- not been specified making it difficult to determine the potential impact of these reductions
- The executive budget may not provide an adequate level of system capacity to facilitate maintenance of the offender classification system and movement of offenders
- ◆ Interim Committee Recommendations
 - The Legislative Finance Committee recommends that the starting point for budget deliberations be the adjusted base less the agency 5% reduction plan

Agency Discussion

Goals and Objectives:

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the legislature may wish to review the following:

- o Goals, objectives and year-to-date outcomes from the 2011 biennium.
- o Critical agency goals, objectives, and anticipated outcomes and their correlation to the executive's budget request for the 2013 biennium.

2011 Biennium Goals

The following provides an update of the goals monitored by the LFC during the 2011 biennium.

Goal 1 – Monitor average daily population (ADP), department action to accommodate ADP growth, and use of carry forward funding

- o Successes
 - Overall population levels were lower than predicted primarily due to a reduction in the probation and parole caseload
 - Rather than using carry forward funds in FY 2010 the department used the biennial appropriation for secure care
 - The department expanded male community alternative beds by 27 in FY 2010
- o Challenges
 - While population growth was lower than projected by the department, male secure care (the high end of the system for security and costs) increased about 2%
 - Probation and parole caseloads have been decreasing
 - Increases in administrative segregation beds have been occurring
 - Maintenance of the 80/20 balance between community versus secure care placements has slipped

Goal 2 – Monitor the impact of applied vacancy savings, including vacancy rates, staff turnover rates, staffing patterns and caseloads, and amount/cost of mandatory overtime

- o Successes
 - Institutions operated by the department were able to achieve the budgeted vacancy savings rate
 - Funds available due to the American Recovery and Reinvestment Act (ARRA) reduced the applied vacancy savings rate for direct care workers at institutions
- o Challenges
 - Budgeted vacancy savings was not achieved in administrative areas, adult probation and parole, or juvenile parole segments of the department
 - Correctional officer turnover rates increased to 18%

Goal 3 – Establish prerelease center in northwestern Montana

- o Challenges

- Funding for this item (40 beds) was included in the spending reductions ordered by the Governor under 17-7-140, MCA

Goal 4 – Monitor the addition of 12.00 FTE funded by a reduction in overtime and overtime costs

- o Successes

- In May, 2010 the department estimated there would be a net savings of \$109,000 as a result of the addition of FTE that increased personal services costs while decreasing overtime costs

Agency Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

- o **Labor Market Experience** - Overall, applicant pools are up, particularly for correctional officer positions where applicant pools have allowed the department to come close to full staffing. The most problematic positions are chemical dependency counselors, nurses, drill instructors, and teachers where recruitment pools are still frequently inadequate and/or applicants are not well qualified. Turnover agency wide is running higher this biennium than in previous biennia. Correctional officer turnover is about 18% while overall agency turnover in FY 2010 was 15%, up 2% over the previous biennium. This is partially a result of “boomer” retirements, but also may be attributable to new employees who are applying for and accepting jobs in desperation and moving on at the first opportunity to take a more “preferred” type of work. The frequency of multiple recruitments to fill positions is on par with previous years and is generally a problem with professional level positions. Rejection of employment is a relatively infrequent occurrence, but when it happens it is generally due to money, another job, or because applicants didn't fully understand or anticipate the nature of the work.
- o **Pay Philosophy** - Per the agency pay plan, new hires are normally hired at 80% of market for their job title. There is some latitude for adjusting that figure up to market with justification where not constrained by a labor contract or internal equity issues. The agency is currently continuing to use 2006 market data, which in most cases translates to less than the level identified by the 2010 market study. This may result in more use of the flexibility in assigning entry rates. The agency currently has no pay component in support of succession planning. Staff is in the process of designing/adopting a succession planning program and pay components could potentially be an attribute of such a program (though none are currently anticipated). The agency currently has a five year increment adjustment plan to move those hired below market to the market rate (2006 data) by the end of their fifth year of employment. Employees who are in bargaining units have had that movement sustained through this biennium as a result of their labor agreements, while non-union employees have been frozen. Unless the pay increments are bargained out of the existing labor contracts the increments towards the five year market will continue for union staff through the next biennium. The agency's preferred philosophy if adequate funding was available would be to restore movement between entry and market to all staff. Ideally pay ranges would be adjusted to reflect the 2010 market data as well.
- o **Obstacles** - The inability to maintain equity between union and non-union staff will have a serious impact on the department's ability to retain qualified professional positions and supervisors/managers over the coming biennium. Further, the entry salaries of the core occupations (correctional officers, drill instructors, and probation and parole officers) were built up over several biennia preceding the current one. Those entry rates have been significantly eroded by market changes that have not translated into adjustments in entry rates of pay in four years. If that process is repeated in the coming biennium the department could anticipate a major impact on the size and quality of applicant pools. As the unemployment bulge begins to lessen, a return to smaller applicant pools may be experienced. In addition, human resources staff is stretched thin as field offices at Pine Hills Youth Correctional Facility and Montana Women's Prison are staffed each with a half-time specialist. Those facilities need full time staff to operate effectively. The agency has negotiated rates for correctional officers and probation and parole officers which are not precisely in line with the 2006 market rates that serve as the agency standard. In order to assure equity and recruitment success, a custom pay plan for the positions above them in the chains of command has been designed. The pay range for chemical dependency counselors and nursing staff are also custom designed, independent of market data. For medical, dental, and psychologist staff the agency tends to pay what it takes to fill the position.

Agency Overview

The Department of Corrections (DOC) is charged with efficiently utilizing state resources to develop and maintain comprehensive adult and youth corrections services. The primary responsibility of DOC is to house and/or provide services to adults and youth who are sentenced to DOC or one of the facilities it operates. DOC is also responsible for juvenile parole and adult probation and parole functions. However, juvenile probation services are part of the District Court Operations Program within the Judicial Branch.

The Department of Corrections provides services through the operation of state institutions, with state employees (such as probation and parole) and the purchase of incarceration and other services (such as community based residential programs) via contracts with local governments and private not-for-profit and for-profit businesses throughout the state.

Staffing Changes

The 2013 biennium budget request proposes a net reduction of 14.50 FTE (summarized in the figure) from 1,303.64 to 1,289.64. The executive proposes reducing general fund supported personal services costs by 4%, which equates to 20.50 FTE (\$2.4 million) for this agency. While the department has identified the number of FTE and dollar amount of the reduction it has not identified the specific positions or category of positions that will be eliminated.

Summary of FTE Changes			
DP No.	Title	FY 2012	FY 2013
303	MWP Correctional Officers	2.00	2.00
317	Mental Health Technicians	3.00	3.00
402	Inmate Canteen	<u>1.00</u>	<u>1.00</u>
	Subtotal	6.00	6.00
<u>4% Personal Service Reductions</u>			
55400	Admin and Support Services	(5.00)	(5.00)
55400	Adult Comm Corrections	(4.00)	(4.00)
55400	Montana Women's Prison	(1.00)	(1.00)
55400	Montana Correctional Enterp	(0.50)	(0.50)
55400	Youth Services	(3.00)	(3.00)
55401	Montana State Prison	<u>(7.00)</u>	<u>(7.00)</u>
	Subtotal	<u>(20.50)</u>	<u>(20.50)</u>
	Total	<u>(14.50)</u>	<u>(14.50)</u>

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Positions Not Specified – Impact on Operations and Risk not Clear

The department has identified that the 4% personal services reduction would equate to 20.50 FTE and has allocated those FTE among department programs. However, the specific position or type of position (such as correctional officer, probation and parole officer, accounting clerk, or administrative support) has not been identified. Without identification of the types of positions that would be eliminated it is difficult to evaluate the impact of these FTE reductions on department operations and management of populations.

Generally, FTE reductions may:

- Increase workload for existing staff
- Result in increased overtime
- Delay completion of some work products

Without identification of the types of positions it is difficult to assess potential impacts on or risks to items such as:

- Institutional security
- Supervision of inmates
- Offender recidivism

The legislature may wish to discuss with the department the specific actions it would take to meet the FTE reductions and the impact on operations of the department and management of the populations.

Budget Comparison

When compared to the 2011 biennium, the 2013 biennium budget is 6.1% (\$21 million) total funds greater. General fund increases 6.2% (\$20.7 million) during the same time period. This budget increase is driven by requests for increased

funding for the number of beds, both community based and secure prison, within the system. The figure on page D-130 illustrates that the executive budget includes requests totaling \$22.3 million general fund to support 202 and 386 additional beds in FY 2012 and 2013, respectively, above the average daily population supported in FY 2010. The executive proposes increasing the number of community corrections beds by 117 and secure custody beds (including unused capacity at state institutions) by 269 by the end of the biennium.

The executive budget proposes increasing the bed capacity of the system by:

- o Fully funding all available beds at existing facilities (treatment, prerelease, male assessment and sanction, and prison)
- o The addition of a 40 bed prerelease center in the northwestern portion of the state in FY 2013
- o The addition of 34 community based alternative beds - the exact type and location are not specified
- o The addition of 20 secure assisted living type beds
- o The addition of 144 prison beds through relocation of the current male assessment and sanction center and returning the Missoula County facility to use as a prison

The estimated population increase over the base budget is 271 and 426 offenders in FY 2012 and 2013, respectively. The budget request supports fewer offenders than the ADP is projected to increase:

- o If population grows as estimated, there is not funding or the existence of an adequate number of Community Corrections or male prison beds within the current system
- o The department will be challenged to create programs that divert offender population growth from male prisons and the community. This may result in more serious or higher risk offenders being supervised in community settings
- o Shifting more serious offenders to community settings may have a negative impact on offender recidivism rates, which in turn may increase system stress and demand for prison beds. The department will be challenged to implement programs that are proven to be effective and result in offenders succeeding in the community
- o Operating prisons at operation capacities may stress the maintenance of the inmate classification system

Summary of Decision Packages and Bed Increases Over FY 2010 Base

Q3 2007 Community Corrections includes 34 communities, 31 of which have been incorporated.

D1 20 / Community Corrections includes 24 community alternative beds but exact type and location is not specified.

**LFD
ISSUE**System Capacity and Offender Management and Movement

The executive proposes a secure custody budget that fully utilizes current male prison system capacity. However, some excess capacity within the system is necessary to allow for maintenance of the proper segregation of inmates by classification level and movement of inmates among housing units. Some excess capacity can also mean increased efficiency in timely placement of populations in the most appropriate settings for their potential future success in exiting and staying out of the system.

Corrections experts recommend a higher excess capacity than is included in the executive budget. For instance, the consulting firm (Carter Goble Lee) that completed the State of Montana Department of Corrections Master Plan (referred to as the master plan) dated December 2008, recommends that the ADP of offenders not exceed 85% - 90% of the system operating capacity. The executive budget does not provide for more beds than ADP.

Because the ability to properly segregate and house offenders by classification level can impact the safety and security of offenders and staff within the facilities, offender access to programs required prior to consideration for parole, and litigation (for example, for failure to comply with American's With Disabilities Act (ADA) requirements) department articulation and adherence to policies and goals on the classification and management of offenders are significant. The department does not have a specific policy or goal statement about desired system capacity verses ADP. However, among the goals of the secure care units within the agency are goals related to the classification system and population management such as:

- o "Manage the inmate populations risk and needs based on application of the inmate objective classification system through completion of inmate classification reports as required per policy. Classification reports and statistics will be reviewed on a monthly basis for fiscal year 2011 through 2013 with an overall facility accuracy and timeliness rating of 90% or higher.
- o Maintain zero escapes and less than 5 major facility incidents that result in a lockdown or other action for fiscal year 2011 through 2013. In addition we will track, review and take the appropriate disciplinary action for inmate on inmate and inmate on staff assaults for fiscal year 2011 through 2013.
- o Monitor inmate major disciplinary rule violations and inmate grievances on a monthly basis during fiscal year 2011 through 2013 to determine problem inmates, problem areas or issues that involve MSP staff intervention. Disciplinary infractions and types of inmate grievances will be tracked and compared to previous fiscal years to review trends or changes in inmate activities or issues.
- o Conduct and take minutes of monthly labor management meetings during fiscal year 2011 through 2013 to ensure we maintain a safe work environment of all staff as well as a safe environment for the inmate population. Issues discussed that will have followed up action will be addressed and completed within a reasonable timeframe from discussion or resolution of the issue."

During the 2011 biennium MSP modified usage of a unit to provide additional administrative segregation beds. Administrative segregation is a management tool used to house offenders that may not be housed in the general population for a variety of reasons (offender behavior, risk of harm from others, etc.). This modification reduced the capacity within the unit and of the institution. If MSP finds it necessary to continue this modification for an extended period of time the operating capacity of the facility will be reduced. Reduction in the operating capacity at MSP will increase the need for prison beds and funding since reduced capacity at the state operated institution does not equate to reduced costs. Rather, inability to house inmates in a manner that accommodates their completion of programming prior to parole eligibility (creating a backlog) could increase the pressure for more prison beds.

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ISSUE CONT.**

Given the potential impact on management and future growth of correctional populations due to lack of excess capacity as included in the executive budget for the 2013 biennium, the legislature may wish to discuss with the agency:

- The risk and challenges associated with maintenance of the inmate classification system if ADP grows as estimated
- The impact of the proposed budget on the agency's ability to control current and future populations, while maintaining goals of staff, inmate, and facility security

Population Estimate

For the 2013 biennium the department projects that the overall rate of population growth will be 1.9% per year. Probation and parole caseloads are estimated to grow slightly more than 1% per year, alternatives to prison about 5% per year, and male secure care 3.1% per year. The projected overall rate of growth, if realized, would be the lowest annual rate of growth experienced but higher than the overall rate of growth for the past two years, which has been 1% and 0% for FY 2009 and FY 2010, respectively. One driver of correctional system cost is the portion of the system that is experiencing growth. According to the department, the cost per day for adult services or incarceration varies from a low of \$5.12 per day for probation and parole to \$192.70 for female methamphetamine treatment. Prerelease services costs between \$60 and \$70 per day while prison costs range from \$73 to \$116 per day. Population increases in alternatives to prison and prison segments of the system are more costly than an increase in the probation and parole caseload.

Challenges

While the projected population growth is one of the lowest in recent years, it brings with it several challenges, including:

- Current financial conditions are stressing state financial resources and the ability to fund ongoing services without including population increases
- Higher cost segments of the correctional system (prison and community alternatives) are anticipated to grow while growth rates in lower cost options are more stagnant
- Current secure prison facilities (state, regional, and private) are at or near operational capacity, which is likely to lead to increased use of local jails if space is available
- Current financial conditions may make it more difficult for offenders to gain employment, which is generally a requirement before being released to probation or parole

Additional information about budget requests related to population growth including challenges and risks is included in the narrative for Adult Community Corrections and Secure Custody facilities.

17-7-140, MCA Reductions

During the interim the Governor ordered executive branch agencies to reduce expenditures as required under section 17-7-140, MCA. The following figure summarizes the reductions made by the Governor.

General Fund Spending Reductions 17-7-140, MCA			
Item	FY 2010	FY 2011	Ongoing
Norhtwest Prerelease Center	\$1,226,984	\$1,226,984	yes - requested for FY 2013
Personal Services Offset with Supervision Fees	500,000	500,000	no
Personal Services Offset Parental Contributions	350,000	250,000	no
Decrease MSP Operating Budget	165,000	165,000	yes
Outside Medical Reduction	100,000	100,000	no - budget shortfall
Personal Services Offset Collections	100,000	100,000	no
License Plate OTO Appropriation Reduction	100,000	0	yes
P&P Leased Vehicle Return	70,000	160,000	yes
HR/Training Leadership Training Reduction	15,000	15,000	yes
Advisory Councils Reduction	8,348	10,190	yes
Board of Pardons and Parole Contract Reduction	5,000	7,500	yes
Training Budget Reduction	0	7,447	no
IT Replacements Reduction	0	200,000	no
Fixed Costs Budget Reduction	0	23,238	no
PRC Per Diem 1%/Year	0	187,147	no
Reduce Elkhorn Meth Treatment 20%	0	365,000	no
Treatment Per Diem 1% FY 2011	0	140,036	no
Hold MASC Per Diem at FY 2010 Level	0	65,441	no
CCA Per Diem Rate Reduction	0	215,348	no
Hold Per Diem Rate for Regional Prisons at FY 2010	0	199,219	no
Juvenile Delinquency Incentive Programs Reduction	0	300,000	no
Total	<u>\$2,640,332</u>	<u>\$4,237,550</u>	
Biennial Total		<u>\$6,877,882</u>	
Amount Ongoing	<u>\$1,590,332</u>	<u>\$0</u>	

Of the \$6.9 million of 2011 biennium spending reductions, \$2.6 million were FY 2010 or base budget year reductions and the balance of the reductions occur in FY 2011. Generally, reductions in the FY 2010 operating expenditures become ongoing reductions when developing the next biennium's budget. Of the \$2.6 million of spending reductions for FY 2010, \$1.6 million are potentially ongoing in nature.

Carry forward Appropriation

The 2009 Legislature approved an across the board reduction of 2% for most agencies for the 2011 biennium. For the Department of Corrections, the legislature restored a portion (\$1.5 million) of this reduction in FY 2011 and also recognized that the department was projected to have a significant amount of funds (a projected \$4.5 million) available to it due to carry forward provisions of 17-7-340, MCA that allow a portion of unexpended FY 2009 funds to be used in the 2011 biennium. 2009 biennium population estimates did not reach budgeted levels, resulting in a reversion of general fund by the department and subsequently making carry forward funds available for expenditure in the 2011 biennium. The carry forward funding available to the department for the 2011 biennium is \$6.5 million or \$2.0 million more than projected during the 2009 session.

Budget Reductions

The figure summarizes the impact of the 2% across the board reduction and carry forward funds on the department's budget. For the 2011 biennium the \$6.5 million in carry forward funds available to the department exceeded the 2% reduction by \$1.1 million

2011 Biennium Summary of Selected Actions With General Fund Impact			
Item	FY 2010	FY 2011	Biennial
2% Unspecified Reduction	(\$3,440,653)	(\$3,440,653)	(\$6,881,306)
Restore Portion of Unspecified Reduction	0	<u>1,500,000</u>	<u>1,500,000</u>
Net 2% Reduction - Allocated Among Program	(3,440,653)	(1,940,653)	(5,381,306)
17-7-340, MCA, Carry Forward Appropriation	<u>48,692</u>	<u>6,458,699</u>	<u>6,507,391</u>
Total	<u>(\$3,391,961)</u>	<u>\$4,518,046</u>	<u>\$1,126,085</u>

Allocation among Programs and Use of Biennial Appropriation

Allocation Among Programs and Use of Biennial Appropriation									
2% ATB					17-7-140, MCA				
	FY 2010	FY 2011	FY 2009 Carryforward	FY 2011		Biennial Appropriation		Program Transfers	
	FY 2010	FY 2011	FY 2010	FY 2011	FY 2010	FY 2011	FY 2010	FY 2011	FY 2010
Admin and Support Services	(\$261,663)	(\$145,108)	\$11,692	\$308	(\$228,348)	(\$463,375)	\$0	\$1,010,000	\$198,845
Board of Pardons	(14,692)	(8,211)	0	0	0	0	0	62,000	47,308
Adult Community Secure Facilities	(1,192,575)	(699,339)	0	0	(1,796,984)	(2,644,608)	0	1,832,000	(1,157,559)
MCE	(1,491,445)	(842,480)	0	6,457,391	(165,000)	(579,567)	3,500,000	(3,500,000)	(3,343,947)
Youth Services	(77,781)	(23,608)	0	0	(100,000)	0	0	15,000	(162,781)
	(492,497)	(221,907)	38,000	0	(350,000)	(550,000)	0	(200,000)	0
	(\$3,440,653)	(\$1,940,653)	\$49,692	\$6,457,699	(\$2,640,332)	(\$4,237,550)	\$3,500,000	(\$3,500,000)	\$0
									\$0
									(\$2,53,293)
									(\$3,220,504)
									(\$8,751,797)

The figure summarizes the allocation of reductions among programs within the department and the impact of selected budgetary management decisions made by the department. In managing the 2011 biennium budget the department chose to move \$3.5 million included in a biennial appropriation for secure housing from FY 2011 to FY 2010. \$2.7 million of these funds were then moved to other programs within the agency. The department chose this action rather than the use of the carry forward funds that were also available. This decision is significant because expenditures of the biennial appropriation are included in the base budget used to develop the 2013 biennium budget. Carry forward funds are considered one time only funding that is removed from the expenditure level used to develop the base budget used to develop the 2013 biennium budget. Had the department used the carry forward appropriation rather than the biennial appropriation during FY 2010 the \$3.5 million would have needed to be included in a decision package for legislative consideration in order to become part of the 2013 biennium budget.

This action illustrates how agency management actions and the legislative provision of the flexibility of a biennial appropriation can impact future budgeting cycles. Had the legislature not provided biennial appropriations for certain programs within the department, the only option available to the department would have been use of the carry forward (one time only) appropriations. While the legislature anticipated the agency's use of carry forward funds to offset the 2% reduction in funding, it anticipated this use in the context of one time only funding that would be removed from the base budget.

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following table summarizes the plan submitted for the agency.

Total 5% Reduction Plan Identified by Agencies, By Division Included and Not Included in Executive Budget 2013 Biennium					
Program/DP Number/Description	FTE	% General Fund	State Of Total	Special Revenue	% Of Total
Administrative and Financial Services					
<i>Included in Executive Budget</i>					
55400 4% FTE Reduction - AFSD	5.00	\$55,808	0.7%		0.0%
55401 4% FTE Reduction - SSD		143,887			
55402 4% FTE Reduction - HPISD		106,874	1.3%		0.0%
Subtotal Included in Executive Budget		\$306,569	3.7%	\$0	0.0%
<i>Not Included in Executive Budget</i>					
HPIS Administrator	1.00	\$104,904	1.3%	\$0	0.0%
Fixed Cost Reductions		97,000			
AFSD Reductions		45,000			
Director's Office Reductions		14,000			
Outside Medical		125,000			
Health Services		4,000			
IT Reductions		76,000			
Staff Services		30,000			
Training Manual			163		
Collections Unit			17,128		
Supervisory Fees			0.0%	\$2,934	12.9%
Subtotal Not Included in Executive Budget		495,904	6.0%	\$40,225	22.6%
Total Administrative and Financial Services		\$802,473	9.7%	\$40,225	22.6%
Adult Community Corrections					
<i>Included in Executive Budget</i>					
55400 4% FTE Reduction	4.00	\$189,181	2.3%	\$0	0.0%
Subtotal Included in Executive Budget		\$189,181	2.3%	\$0	0.0%
<i>Not Included in Executive Budget</i>					
Adult Community Corrections		2,670,725	32.4%	\$0	0.0%
Subtotal Not Included in Executive Budget		\$2,670,725	32.4%	\$0	0.0%
Total Adult Community Corrections		\$2,859,906	34.7%	\$0	0.0%
Secure Care					
<i>Included in Executive Budget</i>					
55400 4% FTE Reduction - MWP	1.00	\$36,333	0.4%		0.0%
55401 4% FTE Reduction - Contract Beds	7.00	461,857	5.6%	0	0.0%
Subtotal Included in Executive Budget		\$498,190	6.0%	\$0	0.0%
<i>Not Included in Executive Budget</i>					
Montana State Prison	14.00	\$1,686,194	20.4%	\$0	0.0%
Contract Beds		1,166,913			
Montana Women's Prison		267,129			
Inmate Pay			\$6,347		
MSP Staff Transportation		0	\$145		
Subtotal Not Included in Executive Budget		\$3,120,236	37.8%	\$6,492	3.6%
Total Secure Care		\$3,618,426	43.9%	\$6,492	3.6%
Montana Correction Enterprises					
<i>Included in Executive Budget</i>					
55400 4% FTE Reduction	0.50	\$23,187	0.3%		0.0%
Subtotal Included in Executive Budget		\$23,187	0.3%	\$0	0.0%
<i>Not Included in Executive Budget</i>					
MCE Reductions		\$21,459	0.3%		0.0%
Canteen			\$89,100		
SS Reduction			\$1,276		
Subtotal Not Included in Executive Budget		\$21,459	0.3%	\$90,376	50.8%
Total Montana Correctional Enterprises		\$44,646	0.5%	\$90,376	50.8%
Youth Services Division					
<i>Included in Executive Budget</i>					
55400 4% FTE Reduction	3.00	\$186,702	2.3%		0.0%
Subtotal Included in Executive Budget		\$186,702	2.3%	\$0	0.0%
<i>Not Included in Executive Budget</i>					
Youth Services Reductions		\$733,558	8.9%	\$0	0.0%
PHYCF Canteen			\$173		
Interest and Income			\$20,506		
Parental Contributions		0	\$20,305		
Subtotal Not Included in Executive Budget		\$733,558	8.9%	\$40,984	23.0%
Total Youth Services Division		\$920,260	11.2%	\$40,984	23.0%
<i>Included in Executive Budget</i>					
Not Included in Executive Budget		7,041,882	85.4%	178,077	100.0%
Total Agency Reduction Plan	35.50	\$8,245,711	100.0%	\$178,077	100.0%

The 5% reduction plan for the Department of Corrections includes general fund reductions totaling \$8.2 million. Of this amount \$1.2 million associated with a 4% reduction in personal service costs is included in the executive budget. Reductions not included in the executive budget total \$7.0 million and include 18.00 FTE. Among the largest reductions in the plan are:

- o \$2.7 million in Adult Community Corrections, including a reduction in the number of treatment beds available
- o \$1.7 million at Montana State Prison, including the elimination of 14.00 FTE and the education and chemical dependency treatment programs within the facility
- o \$1.2 million in contract prison beds through a reduction in the usage of beds at contract facilities

Some of the reductions would decrease the number of community based beds and prison beds. In order to realize the savings of decreasing beds, the net number of offenders cannot increase. Offenders leaving these facilities cannot be replaced by another offender. Potential impacts of decreasing the number available beds may include:

- o Pressure to lower the prison population so that it does not exceed the available capacity of institutions within the state
- o Increased difficulty in the successful transition of offenders to the community
- o More offenders with higher risk behaviors may be placed in the community
- o Longer lengths of stay in prison if an offenders must wait for an opening in order to complete court ordered programming

The reduction plan includes some items (such as elimination of a vacant FTE or use of state special revenue to offset general fund costs) that may be easily implemented without significant difficulty. Other items included in the plan such as elimination of programming at Montana State Prison may have significant undesirable impacts. The largest reductions are discussed in the applicable program narratives that follow the agency summary portion of this document.

Funding

The following table summarizes funding for the agency, by program and source, as recommended by the Governor. Funding for each program is discussed in detail in the individual program narratives that follow.

Agency Program	Total Agency Funding 2013 Biennium Budget					
	General Fund	State Spec.	Fed Spec.	Proprietary	Grand Total	Total %
01 Admin And Support Services	\$ 35,669,130	\$ 873,916	\$ -	\$ 194,818	\$ 36,737,864	10.07%
02 Adult Community Corrections	124,924,499	919,122	-	-	125,843,621	34.48%
03 Secure Custody Facilities	155,331,680	259,664	18,346	-	155,609,690	42.63%
04 Mont Correctional Enterprises	1,795,695	4,167,549	-	1,183,795	7,147,039	1.96%
05 Youth Services	37,947,491	1,689,490	23,398	-	39,660,379	10.87%
Grand Total	<u>\$ 355,668,495</u>	<u>\$ 7,909,741</u>	<u>\$ 41,744</u>	<u>\$ 1,378,613</u>	<u>\$ 364,998,593</u>	<u>100.00%</u>

The department receives about 97% of its funding from the general fund. About 2% of the department's funding comes from state special revenue. The four largest state special revenues are:

- o The canteen revolving fund, which receives revenue from the sale of items (such as personal hygiene items) to inmates
- o Probation and parole supervision fees are collected from offenders under the supervision of the department
- o Pine Hills donations, interest, and income funds come mostly from the collection of interest and income on school trust lands
- o Juvenile placement costs of care comes from payments made by parents and other responsible parties toward the costs of care of juveniles under the supervision of juvenile parole (Corrections) or juvenile probation (Judicial Branch)

The remaining 1% of the department's funding comes from proprietary funds such as license plate manufacturing and prison ranch operations.

Statutory Appropriations

The following figure shows the total statutory appropriations associated with this agency. Because statutory appropriations do not require reauthorization each biennium, they do not appear in HB 2 and are not routinely examined by the legislature. The table is provided so that the legislature can get a more complete picture of agency operations and associated policy.

Statutory Appropriations Department of Corrections					
Purpose	Fund MCA #	Fiscal Source	Fiscal 2010	Fiscal 2012	Fiscal 2013
<i>Direct Bearing on Agency Operations</i>					
Inmate Welfare Fund	53-1-109	SSR	\$429,611	\$392,049	\$393,554

As appropriate, LFD staff has segregated the statutory appropriations into two general categories: 1) those where the agency primarily acts in an administrative capacity and the appropriations consequently do not relate directly to agency operations; and 2) those that have a more direct bearing on the mission and operations of the agency.

Supplemental Appropriations

The executive budget indicates that the agency will seek a \$900,000 supplemental appropriation. However, as of this writing the department has taken action to mitigate the projected cost overrun. Information provided to legislative staff indicated that this amount would be removed from the supplemental appropriations bill. Additional information on the agency mitigation efforts will be provided to the appropriations subcommittee.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	165,758,162	165,758,162	331,516,324	93.21%	169,948,697	169,948,697	339,897,394	93.12%
Statewide PL Adjustments	91,277	100,126	191,403	0.05%	(21,154)	(21,175)	(42,329)	(0.01%)
Other PL Adjustments	10,099,795	15,672,542	25,772,337	7.25%	10,691,175	16,263,922	26,955,097	7.38%
New Proposals	(632,212)	(1,179,357)	(1,811,569)	(0.51%)	(632,212)	(1,179,357)	(1,811,569)	(0.50%)
Total Budget	\$175,317,022	\$180,351,473	\$355,668,495		\$179,986,506	\$185,012,087	\$364,998,593	

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison		Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
Budget Item									
FTE		113.50	113.50	108.50	108.50	113.50	108.50	(5.00)	(4.41%)
Personal Services	6,838,385	6,938,224	6,863,392	6,866,189	13,776,609	13,729,581	(47,028)	(0.34%)	
Operating Expenses	10,478,739	9,808,205	11,555,934	11,452,349	20,286,944	23,008,283	2,721,339	13.41%	
Total Costs	\$17,317,124	\$16,746,429	\$18,419,326	\$18,318,538	\$34,063,553	\$36,737,864	\$2,674,311	7.85%	
General Fund	16,879,299	16,189,561	17,881,168	17,787,962	33,068,860	35,669,130	2,600,270	7.86%	
State Special	350,838	473,165	440,136	433,780	824,003	873,916	49,913	6.06%	
Federal Special	0	0	0	0	0	0	0	n/a	
Other	86,987	83,703	98,022	96,796	170,690	194,818	24,128	14.14%	
Total Funds	\$17,317,124	\$16,746,429	\$18,419,326	\$18,318,538	\$34,063,553	\$36,737,864	\$2,674,311	7.85%	

Program Description

The Administration and Support Services Program includes the Director's Office, Health Services, Information Services Division, Staff Services Division, Administrative and Financial Services Division, and the administratively attached Board of Pardons and Parole. This program provides services to the department, governmental entities, and the public in the areas of public and victim information, human resource management, staff development & training, American Indian liaison services, policy management, information technology, legal information, technical correctional services, research and statistics, medical services management, project management, payroll, budgeting and program planning, contract development, federal grants management, victim restitution, supervision fee collection, accounting, and various administrative and management support functions.

Program Highlights

Administrative and Financial Services
Major Budget Highlights
<ul style="list-style-type: none"> ◆ Funding for this program increases 7.9% or \$2.7 million primarily in general fund <ul style="list-style-type: none"> • Increases in statewide present law adjustments and funding for outside medical costs are partially offset by a 4% reduction in personal services
Major LFD Issues
<ul style="list-style-type: none"> ◆ The request for increased funding for outside medical costs may be overstated ◆ Specific positions included in the FTE reduction are not identified, making impacts unknown

Program Narrative

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

The 5% plan for this division includes a number of personal services and operating cost reductions totaling \$802,473 general fund and \$17,291 state special revenue. The largest general fund reduction and only reduction that is included in the executive budget is a 4% reduction in personal services equating to \$306,569 and 5.00 FTE. The next largest reductions, and the only reductions equating to more than \$100,000 in savings, include a 2.2% reduction in outside medical costs (\$125,000 supporting contracted personnel) and elimination of the Health Planning Information Services Division administrator position that is currently vacant (\$104,904).

The impacts of the 5.00 FTE reductions are difficult to estimate because the agency has not identified the positions that would be eliminated, other than that they would consider vacant positions first. The department has requested an increase in outside medical costs of over \$0.8 million in a present law adjustment. Therefore, this reduction would only reduce the requested increase. The department indicated potential reductions include reducing the contract for the medical director by 50% and elimination of the contract for the behavioral health facilitator. Potential impacts of these reductions might include:

- o Increased legal challenges regarding the adequacy of medical care provided to inmates
- o Delayed identification of offenders and programmatic solutions for those with mental health and behavioral health needs

The department has reorganized and does not intend to fill the division administrator position.

Funding

The following table shows program funding, by source, for the base year and for the 2013 biennium as recommended by the Governor.

Program Funding	Program Funding Table					
	Admin And Support Services		Budget	% of Budget	Budget	% of Budget
	Base FY 2010	% of Base FY 2010	FY 2012	FY 2012	FY 2013	FY 2013
01000 Total General Fund	\$ 16,879,299	97.5%	\$ 17,881,168	97.1%	\$ 17,787,962	97.1%
01100 General Fund	16,879,299	97.5%	17,881,168	97.1%	17,787,962	97.1%
02000 Total State Special Funds	350,838	2.0%	440,136	2.4%	433,780	2.4%
02355 Miscellaneous Fines And Fees	3,256	0.0%	34,256	0.2%	34,256	0.2%
02689 Offender Restitution	342,557	2.0%	400,531	2.2%	394,267	2.2%
02917 Msp Canteen Revolving Acct	5,025	0.0%	5,349	0.0%	5,257	0.0%
06000 Total Proprietary Funds	86,987	0.5%	98,022	0.5%	96,796	0.5%
06033 Prison Ranch	24,394	0.1%	25,967	0.1%	25,521	0.1%
06034 Msp Institutional Industries	24,011	0.1%	25,560	0.1%	25,121	0.1%
06545 Prison Indust. Training Prog	13,507	0.1%	14,378	0.1%	14,131	0.1%
06572 Mce License Plate Production	-	-	5,425	0.0%	5,789	0.0%
06573 Msp - Cook Chill	25,075	0.1%	26,692	0.1%	26,234	0.1%
Grand Total	\$ 17,317,124	100.0%	\$ 18,419,326	100.0%	\$ 18,318,538	100.0%

More than 97% of the funding for this program comes from the general fund. About 2% of the program's funding comes from state special revenue, primarily from fees charged for the collection of restitution from offenders. The remainder of the program's funding comes from proprietary funds such as the prison ranch, industries program, and cook chill operation.

5% Reduction Plan by Division Administrative and Financial Services			
Item	FTE	Gen Fund	State Spec Revenue
4% FTE Reduction	5.00	\$306,569	
HPISD Administrator	1.00	104,904	
Messenger Services		3,000	
Insurance		86,482	
Grounds Maintenance		7,518	
Funding Shift Personal Services		38,000	
Printing		2,500	
Travel and Training		4,500	
Contracted Temp Services		10,800	
Non Employee Travel		2,000	
Subscriptions		1,200	
Reduce Outside Medical 2.2%		125,000	
Health Services Training/Travel		4,000	
Filenet Replacement		23,000	
ITX Mugshot System Maintenance		9,700	
Citrix Reduction		1,600	
Elimination of MRM		2,400	
Elimination of SunGard		8,700	
PC Replacement		30,600	
Staff Svcs - Leased Vehicle		11,500	
Contracted Legal Services		18,500	
Training Manuals		\$163	
Collections Unit			17,128
Total	6.00	\$802,473	\$17,291

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category		General Fund				Total Funds			
Budget Item		Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget		16,879,299	16,879,299	33,758,598	94.64%	17,317,124	17,317,124	34,634,248	94.27%
Statewide PL Adjustments		393,795	313,868	707,663	1.98%	427,248	339,739	766,987	2.09%
Other PL Adjustments		879,853	883,413	1,763,266	4.94%	946,733	950,293	1,897,026	5.16%
New Proposals		(271,779)	(288,618)	(560,397)	(1.57%)	(271,779)	(288,618)	(560,397)	(1.53%)
Total Budget		\$17,881,168	\$17,787,962	\$35,669,130		\$18,419,326	\$18,318,538	\$36,737,864	

Present Law Adjustments

The “Present Law Adjustments” table shows the changes to the adjusted base budget proposed by the executive. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
FTE	Fiscal 2012				Fiscal 2013				
	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services				614,904					619,730
Vacancy Savings				(296,770)					(296,960)
Inflation/Deflation				(16,678)					(16,084)
Fixed Costs				125,792					33,052
Total Statewide Present Law Adjustments	\$393,795	\$22,418	\$0	\$427,248*		\$313,868	\$16,062	\$0	\$339,739*
DP 101 - Software maintenance collection management system	0.00	0	35,880	0	35,880	0.00	0	35,880	0
DP 103 - New Building Rent	0.00	27,314	0	0	27,314	0.00	27,572	0	0
DP 601 - Legal Prosecution Services	0.00	10,000	0	0	10,000	0.00	10,000	0	0
DP 602 - Investigator Overtime	0.00	6,742	0	0	6,742	0.00	6,742	0	0
DP 701 - Outside Medical	0.00	829,097	0	0	829,097	0.00	832,399	0	0
DP 801 - Increase Spending Authority for training manuals	0.00	0	31,000	0	31,000	0.00	0	31,000	0
DP 901 - Board member per diem	0.00	6,700	0	0	6,700	0.00	6,700	0	0
Total Other Present Law Adjustments	0.00	\$879,853	\$66,880	\$0	\$946,733	0.00	\$883,413	\$66,880	\$0
Grand Total All Present Law Adjustments	0.00	\$1,273,648	\$89,298	\$0	\$1,373,981*	0.00	\$1,197,281	\$82,942	\$0
* "Total Funds" amount includes funding from sources other than General Fund, State Special, or Federal Special (i.e. Proprietary).									

* "Total Funds" amount includes funding from sources other than General Fund, State Special, or Federal Special (i.e. Proprietary).

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

- o **Pay Plan Exceptions** – The agency pay plan rules do not extend the opportunity for “exceptions” per se. There is some latitude which will be stretched by the challenges of the coming biennium.
- o **Program Specific Obstacles** - Information technology (IT) continues to have difficulty in recruiting qualified applicants. The department frequently post positions twice to recruit qualified applicants for IT positions. The managed care nurse position is challenging to recruit and retain. These specialty positions will continue to be problematic unless the supply of qualified job seeking candidates changes drastically. The work units within this

program are virtually all non-union and have now gone two years without any movement toward market. Similar jobs within collective bargaining units have moved forward each year of the current biennium. The combination of a more competitive market for these specialty type positions such as IT, fiscal, and medical with the diversity in approach to pay within state government (agencies paying based upon different market data) has placed the department in jeopardy of becoming an easy training ground/recruitment source for other agencies. Inequities have been established due to union/non-union differences in pay.

- o **Vacancy** - The program has low turnover and vacancy rates. Pay plan adjustments have been used in some cases with limited success. Fiscal constraints have made other sorts of benefits (e.g. transportation assistance) unlikely. Most work units within this program offer alternative work days/hours etc. to staff who prefer those options. Positions left open to create vacancy savings include: a human resources specialist position at Pine Hills Youth Correctional Facility (six months), a payroll technician position (one month – filled as 0.50 FTE instead of 1.00 FTE), an accounting clerk position (vacant since July 2010), compliance specialist (vacant for one year), an attorney position (open since Oct. 2009), para-legal position (open since April of 2010), emergency management specialist position (open since June of 2010), a training development specialist (vacant since July 2010), and the Health, Planning, IT Division Administrator (vacant since August of 2010).
- o **Legislatively Applied Vacancy Savings** - The program was not able to meet the vacancy savings rate and was approximately \$125,000 over budget in personal services. This was due to low or no turnover, higher than anticipated entry salaries, and reclassification. The program was not able to move funding from the operating budget to the personal services due to Department of Administration Information Technology Services Division (ITSD) fixed costs. ITSD used one time only funding from the 2009 biennium in the calculation of the fixed costs rates for the 2011 biennium. For this reason, the program had a shortage in the operating budget. The department moved funds from other programs to cover the shortage.
- o **Pay/Position Changes** - The department has a pay plan that has been in effect for several biennia that moves staff from entry to market (based upon the 2006 market survey) over five years. That pay plan remained in effect through July 1, 2009. After July 1, 2009 such adjustments were frozen for all non-union staff, with the only exceptions being employees who received an increase due to a miscalculation in the prior year adjustment. Union staff continued to receive entry to market adjustments, if eligible, in keeping with the negotiated labor agreement. There was one reclassification of an information technology position and two adjustments for training assignments. There were four competency adjustments and two performance adjustments processed through the agency pay adjustment request system with the director's approval. All adjustments were covered with budget transfers from other programs.
- o **Retirements** - It's difficult to project who will retire based on the variety of age, service criteria, and potential service purchase options. Based upon lists from the retirement systems, during the biennium there will be 30 employees eligible for retirement. The projected liability is \$479,015. The Board of Pardons and Parole's executive director will be retiring in May of 2011. In addition, two key managers may retire toward the end of the biennium. The Human Resources Division is taking the lead in career and leadership development programs to provide for recruitment replacement needs.

Statewide present law adjustments increase due to: fully funding vacant positions, increases in health insurance costs, and replacement of funding for personal services that was removed from the base budget because it was not ongoing. Each decision package is discussed in the subprograms that follow.

New Proposals

The “New Proposals” table summarizes all new proposals requested by the Governor. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals											
Program	FTE	Fiscal 2012				Fiscal 2013				Total Funds	
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special		
DP 602 - Victim information and notification											
01	0.00	34,790		0	34,790	0.00	19,790		0	0	19,790
DP 55400 - Admin and Support Services FTE Reduction											
01	(5.00)	(306,569)		0	(306,569)	(5.00)	(308,408)		0	0	(308,408)
Total	(5.00)	(\$271,779)		\$0	(\$271,779)	(5.00)	(\$288,618)		\$0	\$0	(\$288,618)

Sub-Program Details**BOARD OF PARDONS 01****Sub-Program Proposed Budget**

The following table summarizes the total executive budget for the sub-program by year, type of expenditure, and source of funding.

Sub-Program Proposed Budget		Base Budget Fiscal 2010	PL Base Adjustment Fiscal 2012	New Proposals Fiscal 2012	Total Exec. Budget Fiscal 2012	PL Base Adjustment Fiscal 2013	New Proposals Fiscal 2013	Total Exec. Budget Fiscal 2013	Total Exec. Budget Fiscal 12-13
Budget Item									
FTE	10.00	0.00	0.00	10.00	0.00	0.00	10.00	10.00	10.00
Personal Services	612,077	(4,840)	0	607,237	(4,275)	0	607,802	1,215,039	
Operating Expenses	164,778	(6,548)	0	158,230	(6,405)	0	158,373	316,603	
Total Costs	\$776,855	(\$11,388)	\$0	\$765,467	(\$10,680)	\$0	\$766,175	\$1,531,642	
General Fund	776,855	(11,388)	0	765,467	(10,680)	0	766,175	1,531,642	
Total Funds	\$776,855	(\$11,388)	\$0	\$765,467	(\$10,680)	\$0	\$766,175	\$1,531,642	

Sub-Program Description

This subprogram includes the Board of Pardons and Parole, which is administratively attached to the department. The Board of Pardons and Parole is established in 2-15-2301, MCA as a quasi judicial board.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent Of Budget
Base Budget	776,855	776,855	1,553,710	101.44%	776,855	776,855	1,553,710	101.44%
Statewide PL Adjustments	(18,088)	(17,380)	(35,468)	(2.32%)	(18,088)	(17,380)	(35,468)	(2.32%)
Other PL Adjustments	6,700	6,700	13,400	0.87%	6,700	6,700	13,400	0.87%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$765,467	\$766,175	\$1,531,642		\$765,467	\$766,175	\$1,531,642	

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments					Fiscal 2013					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					12,079					12,665
Vacancy Savings					(23,619)					(23,640)
Inflation/Deflation					(6,548)					(6,405)
Total Statewide Present Law Adjustments					(\$18,088)					(\$17,380)
DP 901 - Board member per diem	0.00	6,700	0	0	6,700	0.00	6,700	0	0	6,700
Total Other Present Law Adjustments	0.00	\$6,700	\$0	\$0	\$6,700	0.00	\$6,700	\$0	\$0	\$6,700
Grand Total All Present Law Adjustments	0.00	(\$11,388)	\$0	\$0	(\$11,388)	0.00	(\$10,680)	\$0	\$0	(\$10,680)

DP 901 - Board member per diem - This decision package requests funding for Board of Pardons and Parole members compensation as outlined in 2-25-124 (7), MCA. 2013 biennium costs are projected to be greater than the base budget. Funding is requested to support 77 days per year.

Sub-Program Details**DIRECTOR'S OFFICE 02****Sub-Program Proposed Budget**

The following table summarizes the total executive budget for the sub-program by year, type of expenditure, and source of funding.

Sub-Program Proposed Budget								
Budget Item	Base Budget Fiscal 2010	PL Base Adjustment Fiscal 2012	New Proposals Fiscal 2012	Total Exec. Budget Fiscal 2012	PL Base Adjustment Fiscal 2013	New Proposals Fiscal 2013	Total Exec. Budget Fiscal 2013	Total Exec. Budget Fiscal 12-13
FTE	7.00	0.00	0.00	7.00	0.00	0.00	7.00	7.00
Personal Services	333,485	239,461	0	572,946	239,423	0	572,908	1,145,854
Operating Expenses	84,894	(136)	34,790	119,548	(78)	19,790	104,606	224,154
Total Costs	\$418,379	\$239,325	\$34,790	\$692,494	\$239,345	\$19,790	\$677,514	\$1,370,008
General Fund	418,379	239,325	34,790	692,494	239,345	19,790	677,514	1,370,008
Total Funds	\$418,379	\$239,325	\$34,790	\$692,494	\$239,345	\$19,790	\$677,514	\$1,370,008

Sub-Program Description

This subprogram includes the director, his office staff, the communications director, the victim's assistance office, and chief legal staff for the department.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent Of Budget
Base Budget	418,379	418,379	836,758	61.08%	418,379	418,379	836,758	61.08%
Statewide PL Adjustments	239,325	239,345	478,670	34.94%	239,325	239,345	478,670	34.94%
Other PL Adjustments	0	0	0	0.00%	0	0	0	0.00%
New Proposals	34,790	19,790	54,580	3.98%	34,790	19,790	54,580	3.98%
Total Budget	\$692,494	\$677,514	\$1,370,008		\$692,494	\$677,514	\$1,370,008	

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

FTE	Fiscal 2012				Fiscal 2013			
	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special
Personal Services				263,314				263,274
Vacancy Savings				(23,853)				(23,851)
Inflation/Deflation				(136)				(78)
Total Statewide Present Law Adjustments	\$239,325	\$0	\$0	\$239,325		\$239,345	\$0	\$0
Grand Total All Present Law Adjustments	0.00	\$239,325	\$0	\$239,325	0.00	\$239,345	\$0	\$239,345

New Proposals

The “New Proposals” table summarizes all new proposals requested by the Governor. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals										
Sub Program	FTE	Fiscal 2012				Fiscal 2013				Total Funds
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	
DP 602 - Victim information and notification	02	0.00	34,790	0	34,790	0.00	19,790	0	0	19,790
	Total	0.00	\$34,790	\$0	\$34,790	0.00	\$19,790	\$0	\$0	\$19,790

DP 602 - Victim information and notification - This decision package request one time only funding to maintain the existing victim notification system and to expand notification to registered victims when an offender, not in prison, has a custody status change. 46-24-212, MCA provides the statutory framework for victim notification.

Sub-Program Details

ADMINISTRATIVE SERVICES 03

Sub-Program Proposed Budget

The following table summarizes the total legislative budget for the sub-program by year, type of expenditure, and source of funding.

Sub-Program Proposed Budget		Base Budget Fiscal 2010	PL Base Adjustment Fiscal 2012	New Proposals Fiscal 2012	Total Exec. Budget Fiscal 2012	PL Base Adjustment Fiscal 2013	New Proposals Fiscal 2013	Total Exec. Budget Fiscal 2013	Total Exec. Budget Fiscal 12-13
Budget Item									
FTE	34.00	0.00	(5.00)	29.00	0.00	(5.00)	29.00	29.00	29.00
Personal Services	1,576,315	201,040	(306,569)	1,470,786	203,653	(308,408)	1,471,560	2,942,346	
Operating Expenses	3,350,192	151,006	0	3,501,198	58,576	0	3,408,768	6,909,966	
Total Costs	\$4,926,507	\$352,046	(\$306,569)	\$4,971,984	\$262,229	(\$308,408)	\$4,880,328	\$9,852,312	
General Fund	4,491,938	318,593	(306,569)	4,503,962	236,358	(308,408)	4,419,888	8,923,850	
State/Other Special	347,582	22,418	0	370,000	16,062	0	363,644	733,644	
Proprietary	86,987	11,035	0	98,022	9,809	0	96,796	194,818	
Total Funds	\$4,926,507	\$352,046	(\$306,569)	\$4,971,984	\$262,229	(\$308,408)	\$4,880,328	\$9,852,312	

Sub-Program Description

This subprogram includes administrative and financial services such as: accounting, budgeting, and contract management.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category		General Fund				Total Funds			
Budget Item		Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent Of Budget
Base Budget	4,491,938	4,491,938	8,983,876	100.67%	4,926,507	4,926,507	9,853,014	100.01%	
Statewide PL Adjustments	291,279	208,786	500,065	5.60%	324,732	234,657	559,389	5.68%	
Other PL Adjustments	27,314	27,572	54,886	0.62%	27,314	27,572	54,886	0.56%	
New Proposals	(306,569)	(308,408)	(614,977)	(6.89%)	(306,569)	(308,408)	(614,977)	(6.24%)	
Total Budget	\$4,503,962	\$4,419,888	\$8,923,850		\$4,971,984	\$4,880,328	\$9,852,312		

Present Law Adjustments

The “Present Law Adjustments” table shows the changes to the adjusted base budget proposed by the executive. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
	Fiscal 2012					Fiscal 2013				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					275,097					277,818
Vacancy Savings					(74,057)					(74,165)
Inflation/Deflation					(2,100)					(2,049)
Fixed Costs					125,792					33,053
Total Statewide Present Law Adjustments	\$291,279	\$22,418		\$0	\$324,732*		\$208,786	\$16,062	\$0	\$234,657*
DP 103 - New Building Rent	0.00	27,314	0	0	27,314	0.00	27,572	0	0	27,572
Total Other Present Law Adjustments	0.00	\$27,314		\$0	\$27,314		\$27,572		\$0	\$27,572
Grand Total All Present Law Adjustments	0.00	\$318,593	\$22,418	\$0	\$352,046*		\$236,358	\$16,062	\$0	\$262,229*

* "Total Funds" amount includes funding from sources other than General Fund, State Special, or Federal Special (i.e. Proprietary).

DP 103 - New Building Rent - This decision package requests funding for cost differences due to movement of the central office from one state owned building to another.

New Proposals

The "New Proposals" table summarizes all new proposals requested by the Governor. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals										
	Fiscal 2012					Fiscal 2013				
Sub Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 55400 - Admin and Support Services FTE Reduction										
03	(5.00)	(306,569)	0	0	(306,569)	(5.00)	(308,408)	0	0	(308,408)
Total	(5.00)	(\$306,569)		\$0	(\$306,569)	(5.00)	(\$308,408)		\$0	(\$308,408)

DP 55400 - Admin and Support Services FTE Reduction - The executive recommends a 4% reduction of personal services funded with general fund.



Specific Positions Not Identified

The agency was not able to identify the specific positions or types of positions that would be included in this reduction. Therefore, the impact of the reduction on agency operations cannot be determined.

Sub-Program Details

HEALTH SERVICES 04

Sub-Program Proposed Budget

The following table summarizes the total legislative budget for the sub-program by year, type of expenditure, and source of funding.

Sub-Program Proposed Budget		Base Budget Fiscal 2010	PL Base Adjustment Fiscal 2012	New Proposals Fiscal 2012	Total Exec. Budget Fiscal 2012	PL Base Adjustment Fiscal 2013	New Proposals Fiscal 2013	Total Exec. Budget Fiscal 2013	Total Exec. Budget Fiscal 12-13
Budget Item									
FTE	3.00	0.00	0.00	3.00	0.00	0.00	3.00	3.00	3.00
Personal Services	197,976	7,791	0	205,767	8,172	0	206,148	411,915	
Operating Expenses	5,674,112	829,038	0	6,503,150	832,340	0	6,506,452	13,009,602	
Total Costs	\$5,872,088	\$836,829	\$0	\$6,708,917	\$840,512	\$0	\$6,712,600	\$13,421,517	
General Fund	5,872,088	836,829	0	6,708,917	840,512	0	6,712,600	13,421,517	
Total Funds	\$5,872,088	\$836,829	\$0	\$6,708,917	\$840,512	\$0	\$6,712,600	\$13,421,517	

Sub-Program Description

This subprogram includes the costs of purchasing medical services for offenders from sources outside of the prison and the costs of the medical director and behavioral health facilitator.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent Of Budget
Base Budget	5,872,088	5,872,088	11,744,176	87.50%	5,872,088	5,872,088	11,744,176	87.50%
Statewide PL Adjustments	7,732	8,113	15,845	0.12%	7,732	8,113	15,845	0.12%
Other PL Adjustments	829,097	832,399	1,661,496	12.38%	829,097	832,399	1,661,496	12.38%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$6,708,917	\$6,712,600	\$13,421,517		\$6,708,917	\$6,712,600	\$13,421,517	

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments				Fiscal 2012					Fiscal 2013				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds				
Personal Services				16,364					16,762				
Vacancy Savings				(8,573)					(8,590)				
Inflation/Deflation				(59)					(59)				
Total Statewide Present Law Adjustments				\$7,732	\$0		\$0	\$7,732			\$0	\$0	\$8,113
DP 701 - Outside Medical		0.00	829,097		0	0	829,097	0.00	832,399	0	0	0	832,399
Total Other Present Law Adjustments				0.00	\$829,097	\$0		\$829,097			0.00	0	\$832,399
Grand Total All Present Law Adjustments				0.00	\$836,829	\$0		\$836,829			0.00	0	\$840,512

DP 701 - Outside Medical - This decision package requests increased funding for the costs of outside medical care for inmates.

**LFD
ISSUE**
Request May be Overstated

The figure illustrates historical expenditures for outside medical costs, the number of inmates covered by the department for these costs, and the estimated cost per inmate. FY 2012 and 2013 costs are estimated using the department's population projection estimate and a three year average cost per inmate (with an adjustment to FY 2010 for an outlier case) inflated by the CPI for medical cost inflation.

Legislative Fiscal Division Estimate of Outside Medical Cost Department of Corrections									
Summary of Projected Increase									
Year	LFD	Agency	Difference						
FY 2012	(\$130,585)	\$829,097	\$959,682						
FY 2013	447,149	832,399	385,250						
Total	<u>\$316,564</u>	<u>\$1,661,496</u>	<u>\$1,344,932</u>						
Historical and Projected Inmates Covered, Cost, and Average Cost Per Inmate									
Year	Inmates Covered		Ave. Cost Per Inmate	% Increase from Previous Year		Ave. Annual Change			
	Inmates Covered	Total Cost	Ave. Cost Per Inmate	Inmates Covered	Total Cost	Ave. Cost Per Inmate	Inmates Covered	Total Cost	Ave. Cost Per Inmate
2004	2,537	2,433,820	959						
2005	2,753	3,397,646	1,234	8.5%	39.6%	28.6%	8.5%	39.6%	28.6%
2006	2,904	3,404,498	1,172	5.5%	0.2%	-5.0%	7.0%	18.3%	10.5%
2007	2,912	3,853,124	1,323	0.3%	13.2%	12.9%	4.7%	16.5%	11.3%
2008	2,912	4,561,463	1,566	0.0%	18.4%	18.4%	3.5%	17.0%	13.0%
2009	3,019	4,594,905	1,522	3.7%	0.7%	-2.8%	3.5%	13.6%	9.7%
2010	3,063	5,569,867	1,655	1.5%	21.2%	8.8%	3.2%	14.8%	9.5%
2011	3,109	4,915,981	1,581	1.5%	-11.7%	-4.5%	2.9%	10.6%	7.4%
2012	3,230	5,439,282	1,684	3.9%	10.6%	6.5%	3.1%	10.6%	7.3%
2013	3,355	6,017,016	1,793	3.9%	10.6%	6.5%	3.2%	10.6%	7.2%

Using this methodology and comparing the result to department's request indicates that requested funding may overstate the funding needed for outside medical costs in the 2013 biennium by about \$1.3 million. The legislature may wish to:

- o Modify the amount included in this decision package to the amounts estimated in the table
- o If the decision package is approved as requested, restrict the appropriation for outside medical so that the funding could not be used for another purpose and funds not expended would revert to the general fund

Sub-Program Details**STAFF SERVICES DIVISION 05****Sub-Program Proposed Budget**

The following table summarizes the total executive budget for the sub-program by year, type of expenditure, and source of funding.

Sub-Program Proposed Budget		Base Budget Fiscal 2010	PL Base Adjustment Fiscal 2012	New Proposals Fiscal 2012	Total Exec. Budget Fiscal 2012	PL Base Adjustment Fiscal 2013	New Proposals Fiscal 2013	Total Exec. Budget Fiscal 2013	Total Exec. Budget Fiscal 12-13
Budget Item									
FTE	33.50	0.00	0.00	33.50	0.00	0.00	33.50	33.50	33.50
Personal Services	1,921,149	188,824	0	2,109,973	187,710	0	2,108,859	4,218,832	
Operating Expenses	517,660	35,374	0	553,034	35,664	0	553,324	1,106,358	
Total Costs	\$2,438,809	\$224,198	\$0	\$2,663,007	\$223,374	\$0	\$2,662,183	\$5,325,190	
General Fund	2,435,553	193,198	0	2,628,751	192,374	0	2,627,927	5,256,678	
State/Other Special	3,256	31,000	0	34,256	31,000	0	34,256	68,512	
Total Funds	\$2,438,809	\$224,198	\$0	\$2,663,007	\$223,374	\$0	\$2,662,183	\$5,325,190	

Sub-Program Description

This subprogram includes services such as: human resources, training, legal, and investigations.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent Of Budget
Base Budget	2,435,553	2,435,553	4,871,106	92.67%	2,438,809	2,438,809	4,877,618	91.60%
Statewide PL Adjustments	176,456	175,632	352,088	6.70%	176,456	175,632	352,088	6.61%
Other PL Adjustments	16,742	16,742	33,484	0.64%	47,742	47,742	95,484	1.79%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$2,628,751	\$2,627,927	\$5,256,678		\$2,663,007	\$2,662,183	\$5,325,190	

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments				Fiscal 2012				Fiscal 2013			
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds		
Personal Services				269,719					268,560		
Vacancy Savings				(87,637)					(87,592)		
Inflation/Deflation				(5,626)					(5,336)		
Total Statewide Present Law Adjustments				\$176,456	\$0	\$0	\$176,456	\$175,632	\$0	\$0	\$175,632
DP 601 - Legal Prosecution Services	0.00	10,000	0	0	10,000	0.00	10,000	0	0	0	10,000
DP 602 - Investigator Overtime	0.00	6,742	0	0	6,742	0.00	6,742	0	0	0	6,742
DP 801 - Increase Spending Authority for training manuals	0.00	0	31,000	0	31,000	0.00	0	31,000	0	0	31,000
Total Other Present Law Adjustments				0.00	\$16,742	\$31,000	\$0	\$47,742	0.00	\$16,742	\$31,000
Grand Total All Present Law Adjustments				0.00	\$193,198	\$31,000	\$0	\$224,198	0.00	\$192,374	\$31,000

DP 601 - Legal Prosecution Services - This decision package requests increased funding to contract with the Powell County Attorney, who is responsible for prosecuting offenders for escapes and absconding from department facilities. This increase would maintain the continuity of prosecutions not only in Powell County but in Yellowstone and Lewis and Clark where county attorneys have accepted assistance from Powell County with local cases that have occurred when offenders have made venue changes through the court system.

**LFD
COMMENT**

The current (2011 biennium) value of the contract between the department and the Powell County Attorney is \$40,000 per year.

DP 602 - Investigator Overtime – This decision package requests funding for overtime costs for investigators. These individuals conduct investigations (criminal, administrative, and civil) at department facilities throughout the state. They incur overtime related to travel institutional locations, on call, and calls that require immediate response.

DP 801 - Increase Spending Authority for training manuals - This decision package requests an increase in state special revenue so that the Professional Development Bureau can provide training manuals to participants from outside the department and bill those agencies for the materials.

Sub-Program Details

INFORMATION TECHNOLOGY DIVISION 06

Sub-Program Proposed Budget

Budget Item	Base Budget Fiscal 2010	PL Base Adjustment Fiscal 2012	New Proposals Fiscal 2012	Total Exec. Budget Fiscal 2012	PL Base Adjustment Fiscal 2013	New Proposals Fiscal 2013	Total Exec. Budget Fiscal 2013	Total Exec. Budget Fiscal 12-13
FTE	26.00	0.00	0.00	26.00	0.00	0.00	26.00	26.00
Personal Services	2,197,383	(300,700)	0	1,896,683	(298,471)	0	1,898,912	3,795,595
Operating Expenses	687,103	33,671	0	720,774	33,723	0	720,826	1,441,600
Total Costs	\$2,884,486	(\$267,029)	\$0	\$2,617,457	(\$264,748)	\$0	\$2,619,738	\$5,237,195
General Fund	2,884,486	(302,909)	0	2,581,577	(300,628)	0	2,583,858	5,165,435
State/Other Special	0	35,880	0	35,880	35,880	0	35,880	71,760
Total Funds	\$2,884,486	(\$267,029)	\$0	\$2,617,457	(\$264,748)	\$0	\$2,619,738	\$5,237,195

Sub-Program Description

This subprogram includes functions such as information technology and statistical analysis.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent Of Budget
Base Budget	2,884,486	2,884,486	5,768,972	111.68%	2,884,486	2,884,486	5,768,972	110.15%
Statewide PL Adjustments	(302,909)	(300,628)	(603,537)	(11.68%)	(302,909)	(300,628)	(603,537)	(11.52%)
Other PL Adjustments	0	0	0	0.00%	35,880	35,880	71,760	1.37%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$2,581,577	\$2,583,858	\$5,165,435		\$2,617,457	\$2,619,738	\$5,237,195	

Present Law Adjustments

The “Present Law Adjustments” table shows the changes to the adjusted base budget proposed by the executive. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments				Fiscal 2012				Fiscal 2013			
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds		
Personal Services					(221,669)						(219,349)
Vacancy Savings					(79,031)						(79,122)
Inflation/Deflation					(2,209)						(2,157)
Total Statewide Present Law Adjustments	<b">(\$302,909)</b">		<b">\$0</b">		<b">(\$302,909)</b">		<b">(\$300,628)</b">		\$0		(\$300,628)
DP 101 - Software maintenance collection management system	0.00	0	35,880	0	35,880	0.00	0	35,880	0	35,880	
Total Other Present Law Adjustments	0.00	\$0	\$35,880	\$0	\$35,880	0.00	\$0	\$35,880	\$0	\$35,880	
Grand Total All Present Law Adjustments	0.00	(\$302,909)	\$35,880	\$0	(\$267,029)	0.00	(\$300,628)	\$35,880	\$0	(\$264,748)	

DP 101 - Software Maintenance Collection Management System – This decision package requests funding for software support for the collections management system. Funding would be from the offender restitution state special revenue account.

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison									
Budget Item	Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change	
FTE	263.00	263.00	259.00	259.00	263.00	259.00	(4.00)	(1.52%)	
Personal Services	14,502,612	14,760,954	14,847,809	14,850,880	29,263,566	29,698,689	435,123	1.49%	
Operating Expenses	43,020,504	47,481,318	47,456,007	48,688,925	90,501,822	96,144,932	5,643,110	6.24%	
Total Costs	\$57,523,116	\$62,242,272	\$62,303,816	\$63,539,805	\$119,765,388	\$125,843,621	\$6,078,233	5.08%	
General Fund	57,064,428	61,526,242	61,842,861	63,081,638	118,590,670	124,924,499	6,333,829	5.34%	
State Special	458,688	716,030	460,955	458,167	1,174,718	919,122	(255,596)	(21.76%)	
Federal Special	0	0	0	0	0	0	0	n/a	
Total Funds	\$57,523,116	\$62,242,272	\$62,303,816	\$63,539,805	\$119,765,388	\$125,843,621	\$6,078,233	5.08%	

Program Description

The Adult Community Corrections Division consists of adult probation and parole, intensive and enhanced supervision programs, and male and female community corrections programs including: the boot camp training center (Treasure State Correctional Training Center or TSCTC); chemical dependency treatment programs; driving under the influence (DUI) treatment facilities; methamphetamine treatment facilities; assessment, sanction, and revocation centers; and various other programs for diversion of offenders from prison. The department contracts with nonprofit corporations throughout the state for services. The subprogram descriptions provide additional information about the location of various facilities.

Program Highlights

Adult Community Corrections Major Budget Highlights	
<ul style="list-style-type: none"> ◆ General fund support for the division increases 5.3% (\$6.3 million), primarily due to present law adjustments annualizing funding for existing facilities and projected increases in offender population due to: <ul style="list-style-type: none"> • Annualization of current contracts, primarily an increase in the number of prerelease beds • Funding for 34 new community alternative beds, but the type of beds is not specified 	
Major LFD Issues	
<ul style="list-style-type: none"> ◆ The increase in beds supported by the executive budget is less than the estimated increase in average daily population (ADP) ◆ The legislature may wish to review and utilize funds available in the state special revenue fund from collection of supervision fees ◆ Specific positions or types of positions included in the personal services reduction have not been identified 	

Program Narrative

The Adult Community Corrections Division supervises offenders in settings other than prison. The types of services vary in intensity from community supervision to supervised residential settings such as prerelease centers and treatment

facilities. The division provides services through the use of state employees (probation and parole officers) and contracts with nonprofit organization that operate various types of community based residential programs.

The executive request increases funding for the division by 5% or about \$6.1 million when the two biennia are compared. The majority of this increase is included in present law decision packages that annualize the costs of existing contract facilities or request funding for new community correctional facilities and services. Increases in funding are partially offset by a 4% reduction in personal services. Please refer to the section on the 5% plan for more information about personal services funding reductions.

The primary drivers of community correctional costs are increases in the number of offenders to be supervised or housed and the type of placement or service that is needed to supervise the offenders. Community residential treatment programs such as the methamphetamine treatment centers tend to have per day costs at the upper end of the spectrum while services such as probation and parole supervision tend to have the lowest per day costs. While fewer offenders receive residential services than supervision services, the cost per day can be almost twenty times greater.

The figure below shows actual and estimated average daily population (ADP) for FY 2010 through FY 2013 by category of service. The department estimates that residential services such as prison alternatives and prerelease will increase by the greatest percentage level with alternatives projected to increase 4.9% per year and prerelease 3.1% per year. Probation and parole, which oversees the greatest number of offenders, is projected to grow at a rate of about 1.2% per year. This contrasts with actual experience in FY 2009 and FY 2010 when probation and parole caseloads decreased. However, between FY 2006 and FY 2008 probation and parole caseload increases ranged from 7% to 3% per year.

Summary of Adult Community Corrections Population Average Daily Population (ADP)				
Segment	Department Projection			
	Actual FY 2010	FY 2011	FY 2012	FY 2013
Alternatives to Prison	831	872	915	960
% Increase		4.9%	4.9%	4.9%
Prerelease/Transitional Living	900	928	957	987
% Increase		3.1%	3.1%	3.1%
Intensive Supervision & Day Reporting	349	354	358	362
% Increase		1.4%	1.1%	1.1%
Probation, Parole, Enhanced Supervision	8,393	8,489	8,587	8,686
% Increase		1.1%	1.2%	1.2%

The executive budget requests funding for 77 and 117 additional beds in FY 2012 and FY 2013, respectively. This requested increase is less than the projected increase in community corrections ADP, which is 95 and 170 for FY 2012 and FY 2013, respectively. The request for fewer community based beds than projected ADP is consistent with secure beds where the request to fund additional beds is also lower than the projected growth in ADP. Please refer to the agency summary for more information on this topic.

Bed increases supported by the executive budget are primarily in the prerelease setting including annualization of current prerelease contracts and establishment of a new 40 bed prerelease in northwestern Montana. The agency has been working on the northwestern prerelease center for a number of years and has experienced some difficulties locating an acceptable site. Per the department, northwestern Montana is the only geographic area of the state that does not have a prerelease center to assist in transitioning offenders back to the community. Additionally, funding for this prerelease center was provided for the 2011 biennium but included in the spending reduction ordered by the Governor in accordance with 17-7-140, MCA.

Risk areas associated with this division's budget include:

- o Given that the executive budget does not request funding for beds at the level of projected population the department may be challenged to develop alternatives for more serious offenders
- o Achievement of citing and having operational 40 prerelease beds in northwestern Montana has been and will likely remain challenging. If this facility does not become a reality by FY 2013 and the ADP grows as predicted the department will be challenged to accommodate these offenders
- o Continued decline or low rates of growth in probation and parole may stress the division and its financial resources because the cost of other types of housing is more expensive. Additionally, this may create pressure for the department to supervise offenders with higher risk in the community
- o A 34 bed increase is proposed to accommodate population expansion, but the department has not specified the type of facility or program that will be developed. The department will be challenged to identify the type of

service desired and enter into a contract resulting in beds being operational by July 1, 2011 consistent with the funding requested. Given the short time frame between adjournment of the legislature and the beginning of the new fiscal year, this will be difficult to accomplish.

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

The 5% plan for this division includes general fund reductions (or funding switches) totaling almost \$2.7 million. Of the proposed reductions only the 4% reduction in personal services (4.00 FTE and \$189,181) is included in the executive budget.

The two largest reductions are:

- A reduction in the number of Warm Springs Addiction, Treatment, and Change (WATCH) and Corrections Connection facility beds providing drug and alcohol treatment (\$766,486)
- Use of the state special revenue account from the collection of supervision fees to offset general fund costs (\$623,176)

5% Reduction Plan by Division			
Adult Community Corrections			
Item	FTE	Gen Fund	State Spec Revenue
4% FTE Reduction	4.00	\$189,181	
Contract Meth Outcomes Rpt		4,800	
Reduce ESP Expansion by 15 slots		213,525	
Hold Prerelease to Contracted ESP slots		88,914	
Reduce Probation & Parole Vehicles		204,750	
Use Supervision Fee SSR as Offset		623,176	
Discontinue P & P Commuting		35,000	
Maintenance FTE Reduction Watch West		262,918	
Reduce Watch/CCP Expansion		766,486	
Reduce ACCD Beds		293,952	
MASC Rate Negotiation		177,204	
Training and Safety Supplies			\$22,934
	4.00	\$2,859,906	\$22,934

The plan also includes: decreasing Adult Community Corrections Division beds (\$293,952), maintenance FTE reductions at WATCH West (\$262,918), decreasing enhanced supervision slots (\$213,525), decreasing the number of vehicles available for probation and parole officers (\$204,750), and other smaller reductions.

Potential impacts of these reductions are:

- Increased waiting list for community treatment services
- Longer stays in secure care for offenders waiting for community treatment services
- Increased logistical challenges associated with availability of specially equipped vehicles for probation and parole officers when needed
- Increased challenges for the department in maintaining the 80/20 split between offenders in community alternatives and secure care

Funding

The following table shows program funding, by source, for the base year and for the 2013 biennium as recommended by the Governor.

Program Funding Table						
Adult Community Corrections						
Program Funding	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
01000 Total General Fund	\$ 57,064,428	99.2%	\$ 61,842,861	99.3%	\$ 63,081,638	99.3%
01100 General Fund	57,064,428	99.2%	61,842,861	99.3%	63,081,638	99.3%
02000 Total State Special Funds	458,688	0.8%	460,955	0.7%	458,167	0.7%
02261 P & P Supervisory Fee	458,688	0.8%	460,955	0.7%	458,167	0.7%
Grand Total	\$ 57,523,116	100.0%	\$ 62,303,816	100.0%	\$ 63,539,805	100.0%

More than 99% of the division's funding comes from the general fund. Less than 1% of the division's funding comes from state special revenue collected from offenders who must pay a probation and parole supervision fee.

**LFD
ISSUE**Supervision Fee Fund has High Balance – Offset to General Fund

Statute (46-23-1031, MCA) provides for the department to charge and collect fees from offenders under department supervision. The supervisory fee is established in this statute to be an amount between \$120 and \$360 per year that may be prorated at not less than \$10 per month. There are also fees for continuous electronic monitoring and transfer of supervision to another state. Additionally, the fee may be reduced or waived by the department, court, or parole board if it is determined that the payment would cause a significant financial hardship. The statute does not specify how funds in this account are to be utilized. However, the department has established policies and procedures for the expenditure of these funds. Department policy gives priority for spending to officer education, staff training, safety equipment and services, and training equipment and supplies. All other probation and parole costs are supported by the general fund.

Probation and Parole Supervision Fee Fund 02261				
	Actual FY 2010	Projected FY 2011	Projected FY 2012	Projected FY 2013
Beginning Balance	\$1,135,234	\$1,051,679	\$793,679	\$1,035,679
Expenditures				
Corrections - Probation and Parole	958,689	1,024,000	524,000	524,000
Revenues				
Supervision Fees	880,520	766,000	766,000	766,000
Adjustments	(5,386)	0	0	0
Net Revenue Less Expenditures	(78,169)	(258,000)	242,000	242,000
Ending Balance	<u>\$1,051,679</u>	<u>\$793,679</u>	<u>\$1,035,679</u>	<u>\$1,277,679</u>

The figure above illustrates FY 2010 through 2013 actual and projected revenues, expenditures, and fund balance for this account. The FY 2010 fund balance was slightly more than \$1 million after the use of \$500,000 to offset FY 2010 general fund expenditures as part of the spending reductions ordered by the Governor in accordance with the provisions of 17-7-140, MCA. The department plans to offset \$500,000 of general fund expenditures in FY 2011 and has included use of this fund to offset general fund expenditures (\$623,176) in the agency's 5% reduction plan.

For the 2013 biennium revenues to this fund are anticipated to be about \$766,000 per year and expenditures about \$524,000 per year. Thus, revenues are anticipated to exceed expenses by about \$242,000 per year. If no action is taken to modify the historic expenditure pattern, the estimated fund balance in this account at the end of the 2013 biennium is projected to grow to almost \$1.3 million.

Given that this account currently has a fund balance of more than \$1 million and statute does not provide guidance on the use of this account, the legislature may wish to:

- o Offset general fund support for probation and parole by use of the available balance in this account
- o Amend statute and provide for a one time transfer of the available fund balance to the general fund
- o Change statute to specify how funds in this account are to be used and require that any excess fund balance be transferred to the general fund at the end of each fiscal year
- o Change statute to eliminate the fund and require that any fees collected under the provisions of 46-23-1031, MCA be deposited to the general fund

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	57,064,428	57,064,428	114,128,856	91.36%	57,523,116	57,523,116	115,046,232	91.42%
Statewide PL Adjustments	300,846	312,639	613,485	0.49%	303,113	312,118	615,231	0.49%
Other PL Adjustments	4,666,768	5,893,752	10,560,520	8.45%	4,666,768	5,893,752	10,560,520	8.39%
New Proposals	(189,181)	(189,181)	(378,362)	(0.30%)	(189,181)	(189,181)	(378,362)	(0.30%)
Total Budget	\$61,842,861	\$63,081,638	\$124,924,499		\$62,303,816	\$63,539,805	\$125,843,621	

Present Law Adjustments

The “Present Law Adjustments” table shows the changes to the adjusted base budget proposed by the executive. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
FTE	Fiscal 2012				Fiscal 2013				Total Funds	
	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special		
Personal Services				1,122,064					1,125,258	
Vacancy Savings				(624,990)					(625,113)	
Inflation/Deflation				(193,961)					(188,027)	
Total Statewide Present Law Adjustments	\$300,846	\$2,267	\$0	\$303,113		\$312,639	(\$521)	\$0	\$312,118	
DP 201 - Annualize Treatment Beds	0.00	677,431	0	677,431	0.00	677,431	0	0	677,431	
DP 202 - Annualize Prerelease Beds	0.00	2,537,126	0	2,537,126	0.00	2,537,126	0	0	2,537,126	
DP 203 - Requesting NW Prerelease Beds	0.00	0	0	0	0.00	1,226,984	0	0	1,226,984	
DP 204 - Annualize MASC Beds	0.00	128,737	0	128,737	0.00	128,737	0	0	128,737	
DP 206 - TSCTC Overtime	0.00	37,304	0	37,304	0.00	37,304	0	0	37,304	
DP 207 - Population Bed Expansion	0.00	1,054,850	0	1,054,850	0.00	1,054,850	0	0	1,054,850	
DP 208 - Increase in Special Needs Funding	0.00	100,000	0	100,000	0.00	100,000	0	0	100,000	
DP 209 - Increase SCRAM Units by 20	0.00	109,500	0	109,500	0.00	109,500	0	0	109,500	
DP 210 - ACCD MCE Rate Increases	0.00	21,820	0	21,820	0.00	21,820	0	0	21,820	
Total Other Present Law Adjustments	0.00	\$4,666,768	\$0	\$4,666,768	0.00	\$5,893,752	\$0	\$0	\$5,893,752	
Grand Total All Present Law Adjustments	0.00	\$4,967,614	\$2,267	\$0	\$4,969,881	0.00	\$6,206,391	(\$521)	\$0	\$6,205,870

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

- o **Pay Plan Exceptions** - The agency pay plan rules do not extend the opportunity for “exceptions” per se. There is some latitude which will likely be stretched by the challenges of the coming biennium.
- o **Program Specific Obstacles** - The division will face increasing challenges competing for entry level professional job seekers due to the erosion of their pay range in comparison to recent market data. If the

economy expands, competition for the core occupations (probation and parole officer) will become a challenge. College grads will be in greater demand for entry level work. The program goal of recruiting and retaining high quality professional officers will be increasingly difficult due to pay plan rules and collective bargaining agreements.

- o **Vacancy** - This program's core occupation, probation and parole officer, has some occupational challenges related to non-traditional hours of work, clientele, and offices in communities across the state including high cost areas. Collective bargaining agreements make any kind of individualized pay adjustments virtually impossible. Some benefits that had accrued from the provision of vehicles to many officers has been cut back substantially and will be reduced further in the coming biennium.
- o **Legislatively Applied Vacancy Savings** - The need to capture vacancy savings led to a delay in hiring new positions related to a grant for Native American and chemical dependency specialty officers. These positions were important to the agency and division mission and goals, particularly the cost effectiveness of moving offenders to lower cost supervision modalities and keeping them successfully there and reintegrating them into society without relapse/recidivism. Holding open vacancies forces up the caseload of officers and allows less time per offender. Treasure State Correctional Training Center (TSCTC) was exempted from the 7% vacancy savings. However, the rest of the program was subject to the 7% rate. Some segments of the division were not able to meet the vacancy savings rate. The department was able to move funding from the operating budget to the personal services budget to supplement the shortfall.
- o **Pay/Position Changes** - The division has a high percentage of unionized positions (probation and parole officers and secretaries in the regional offices). These staff continued to receive career ladder adjustments throughout the past and current biennia. All adjustments were covered with budget transfers from other programs.
- o **Retirements** - It's difficult to project who will retire based on the variety of age and service criteria and potential service purchase options. Using lists provided by the retirement systems the department estimates about 63 employees are eligible for retirement. This division has a projected liability of \$720,962. Community Corrections has already experienced a considerable turnover in its middle management staff and has successfully installed a new generation in a high percentage of those positions.

The statewide adjustment for personal services increases is due to replacement of a one-time-only funding shift using state special revenue from supervision fees (\$500,000), increases in health insurance costs (\$365,000), and progression to market pay increases as provided in collective bargaining agreements (\$138,500).

New Proposals

The "New Proposals" table summarizes all new proposals requested by the Governor. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals											
Program	FTE	Fiscal 2012					Fiscal 2013				
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
DP 55400 - ACCD FTE Reductions											
02	(4.00)	(189,181)	0	0	(189,181)	(4.00)	(189,181)	0	0	(189,181)	
Total	(4.00)	(\$189,181)	\$0	\$0	(\$189,181)	(4.00)	(\$189,181)	\$0	\$0	(\$189,181)	

Sub-Program Details**COMMUNITY CORRECTION ADMIN 01****Sub-Program Proposed Budget**

The following table summarizes the total executive for the sub-program by year, type of expenditure, and source of funding.

Sub-Program Proposed Budget		Base Budget Fiscal 2010	PL Base Adjustment Fiscal 2012	New Proposals Fiscal 2012	Total Exec. Budget Fiscal 2012	PL Base Adjustment Fiscal 2013	New Proposals Fiscal 2013	Total Exec. Budget Fiscal 2013	Total Exec. Budget Fiscal 12-13
FTE	14.50	0.00	0.00	14.50	0.00	0.00	14.50	14.50	14.50
Personal Services	841,241	(19)	0	841,222	(1,552)	0	839,689	1,680,911	
Operating Expenses	84,789	(3,729)	0	81,060	(3,664)	0	81,125	162,185	
Total Costs	\$926,030	(\$3,748)	\$0	\$922,282	(\$5,216)	\$0	\$920,814	\$1,843,096	
General Fund	905,401	(3,748)	0	901,653	(5,216)	0	900,185	1,801,838	
State/Other Special	20,629	0	0	20,629	0	0	20,629	41,258	
Total Funds	\$926,030	(\$3,748)	\$0	\$922,282	(\$5,216)	\$0	\$920,814	\$1,843,096	

Sub-Program Description

This subprogram includes the centralized management functions of the Community Corrections Division.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent Of Budget
Base Budget	905,401	905,401	1,810,802	100.50%	926,030	926,030	1,852,060	100.49%
Statewide PL Adjustments	(3,748)	(5,216)	(8,964)	(0.50%)	(3,748)	(5,216)	(8,964)	(0.49%)
Other PL Adjustments	0	0	0	0.00%	0	0	0	0.00%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$901,653	\$900,185	\$1,801,838		\$922,282	\$920,814	\$1,843,096	

Present Law Adjustments

The “Present Law Adjustments” table shows the changes to the adjusted base budget proposed by the executive. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

FTE	Fiscal 2012				Fiscal 2013				
	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services				35,033					33,436
Vacancy Savings				(35,052)					(34,988)
Inflation/Deflation				(3,729)					(3,664)
Total Statewide Present Law Adjustments	(\$3,748)	\$0	\$0	(\$3,748)		(\$5,216)	\$0	\$0	(\$5,216)
Grand Total All Present Law Adjustments	0.00	(\$3,748)	\$0	(\$3,748)		0.00	(\$5,216)	\$0	(\$5,216)

Sub-Program Details**TREASURE STATE CORRECTIONAL TRAINI 02****Sub-Program Proposed Budget**

The following table summarizes the total executive budget for the sub-program by year, type of expenditure, and source of funding.

Sub-Program Proposed Budget		Base Budget Fiscal 2010	PL Base Adjustment Fiscal 2012	New Proposals Fiscal 2012	Total Exec. Budget Fiscal 2012	PL Base Adjustment Fiscal 2013	New Proposals Fiscal 2013	Total Exec. Budget Fiscal 2013	Total Exec. Budget Fiscal 12-13
Budget Item									
FTE	27.00	0.00	0.00	27.00	0.00	0.00	27.00	27.00	27.00
Personal Services	1,323,420	73,531	0	1,396,951	73,079	0	1,396,499	2,793,450	
Operating Expenses	436,878	7,351	0	444,229	9,889	0	446,767	890,996	
Total Costs	\$1,760,298	\$80,882	\$0	\$1,841,180	\$82,968	\$0	\$1,843,266	\$3,684,446	
General Fund	1,760,298	80,882	0	1,841,180	82,968	0	1,843,266	3,684,446	
Total Funds	\$1,760,298	\$80,882	\$0	\$1,841,180	\$82,968	\$0	\$1,843,266	\$3,684,446	

Sub-Program Description

This subprogram includes the operation of the Treasure State Correctional Training Center (TSCTC), also known as the boot camp, located in Deer Lodge.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category		General Fund				Total Funds			
Budget Item		Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent Of Budget
Base Budget		1,760,298	1,760,298	3,520,596	95.55%	1,760,298	1,760,298	3,520,596	95.55%
Statewide PL Adjustments		36,096	38,182	74,278	2.02%	36,096	38,182	74,278	2.02%
Other PL Adjustments		44,786	44,786	89,572	2.43%	44,786	44,786	89,572	2.43%
New Proposals		0	0	0	0.00%	0	0	0	0.00%
Total Budget		\$1,841,180	\$1,843,266	\$3,684,446		\$1,841,180	\$1,843,266	\$3,684,446	

Present Law Adjustments

The “Present Law Adjustments” table shows the changes to the adjusted base budget proposed by the executive. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments

FTE	Fiscal 2012				FTE	Fiscal 2013			
	General Fund	State Special	Federal Special	Total Funds		General Fund	State Special	Federal Special	Total Funds
Personal Services				92,877					92,408
Vacancy Savings				(56,650)					(56,633)
Inflation/Deflation				(131)					2,407
Total Statewide Present Law Adjustments	\$36,096	\$0	\$0	\$36,096		\$38,182	\$0	\$0	\$38,182
DP 206 - TSCTC Overtime	0.00	37,304	0	37,304	0.00	37,304	0	0	37,304
DP 210 - ACCD MCE Rate Increases	0.00	7,482	0	7,482	0.00	7,482	0	0	7,482
Total Other Present Law Adjustments	0.00	\$44,786	\$0	\$44,786	0.00	\$44,786	\$0	\$0	\$44,786
Grand Total All Present Law Adjustments	0.00	\$80,882	\$0	\$80,882	0.00	\$82,968	\$0	\$0	\$82,968

DP 206 - TSCTC Overtime - This decision package requests funding for overtime and holiday worked at the Treasure State Correctional Training Center.

DP 210 - ACCD MCE Rate Increases - This decision package requests funding for Montana Correction Enterprises (MCE) requested rate increases for food and laundry services.

LFD
ISSUE

Request Related to Proprietary Rate Increase

This decision package requests funding to support increased costs expected because the proprietary fund operated by Montana Correctional Enterprises has requested a rate increase. The legislature may wish to take action on the MCE rate prior to acting on this decision package.

Sub-Program Details**PRE-RELEASE 03****Sub-Program Proposed Budget**

The following table summarizes the total executive budget for the sub-program by year, type of expenditure, and source of funding.

Sub-Program Proposed Budget		Base Budget Fiscal 2010	PL Base Adjustment Fiscal 2012	New Proposals Fiscal 2012	Total Exec. Budget Fiscal 2012	PL Base Adjustment Fiscal 2013	New Proposals Fiscal 2013	Total Exec. Budget Fiscal 2013	Total Exec. Budget Fiscal 12-13
Budget Item									
Operating Expenses	20,189,198	2,637,126		0	22,826,324	3,864,110		0	24,053,308
Total Costs	\$20,189,198	\$2,637,126		\$0	\$22,826,324	\$3,864,110		\$0	\$24,053,308
General Fund	20,189,198	2,637,126		0	22,826,324	3,864,110		0	24,053,308
Total Funds	\$20,189,198	\$2,637,126		\$0	\$22,826,324	\$3,864,110		\$0	\$24,053,308
									\$46,879,632

Sub-Program Description

This subprogram includes community based prerelease centers that are used to transition offenders from prison to the community or as a diversion alternative to prison. The department contracts with nonprofit corporations in Great Falls, Missoula, Billings, Bozeman, Butte, and Helena for prerelease services.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent Of Budget
Base Budget	20,189,198	20,189,198	40,378,396	86.13%	20,189,198	20,189,198	40,378,396	86.13%
Statewide PL Adjustments	0	0	0	0.00%	0	0	0	0.00%
Other PL Adjustments	2,637,126	3,864,110	6,501,236	13.87%	2,637,126	3,864,110	6,501,236	13.87%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$22,826,324	\$24,053,308	\$46,879,632		\$22,826,324	\$24,053,308	\$46,879,632	

Present Law Adjustments

The “Present Law Adjustments” table shows the changes to the adjusted base budget proposed by the executive. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments					Fiscal 2012					Fiscal 2013				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds					
DP 202 - Annualize Prerelase Beds 0.00	2,537,126	0	0	2,537,126	0.00	2,537,126	0	0	2,537,126					
DP 203 - Requesting NW Prerelase Beds 0.00	0	0	0	0	0.00	1,226,984	0	0	1,226,984					
DP 208 - Increase in Special Needs Funding 0.00	100,000	0	0	100,000	0.00	100,000	0	0	100,000					
Total Other Present Law Adjustments		\$0	\$0	\$2,637,126	0.00	\$3,864,110	\$0	\$0	\$3,864,110					
Grand Total All Present Law Adjustments		0.00	\$2,637,126	\$0	\$0	\$2,637,126	0.00	\$3,864,110	\$0	\$0	\$3,864,110			

DP 202 - Annualize Prerelase Beds - This decision package requests funding to annualize the costs of community prerelase facility beds to include funding for 100% utilization of all contracted prerelase beds. This includes beds that will become operational in FY 2011.

**LFD
COMMENT**

Funding in this decision package supports an increase of 21 prerelase beds. Please refer to the program summary for additional information about anticipated population increases and related budget requests.

DP 203 - Requesting NW Prerelase Beds - This decision package requests funding to support 40 prerelase beds at a location in northwestern Montana.

**LFD
COMMENT**

Funding for a prerelase center in NW Montana has been provided to the department for the past two biennia. Funding for these beds was one of the spending reductions ordered by the Governor in accordance with 17-7-140, MCA. The department housed offenders that might have gone to this facility within the system of existing programs and services.

Please refer to the program summary for additional information about anticipated population increases and related budget requests.

DP 208 - Increase in Special Needs Funding - This decision package requests additional funding for special needs, which is utilized by the centers to assist offenders who are unable to work due to medical issues, mental health diagnoses, or physical restrictions, or are working but unable to pay the high cost of medication, treatment, or therapy. Currently, special needs funding for the six prerelase centers is capped by the department at \$50,000. The prerelase centers serve approximately 1,600 offenders each year. A portion of the requested funds (\$20,000) would replace general fund that was transferred to the Department of Public Health and Human Services to support placement of an offender in a community based living program.

Sub-Program Details

PROBATION AND PAROLE 04

Sub-Program Proposed Budget

The following table summarizes the total executive budget for the sub-program by year, type of expenditure, and source of funding.

Sub-Program Proposed Budget		Base Budget Fiscal 2010	PL Base Adjustment Fiscal 2012	New Proposals Fiscal 2012	Total Exec. Budget Fiscal 2012	PL Base Adjustment Fiscal 2013	New Proposals Fiscal 2013	Total Exec. Budget Fiscal 2013	Total Exec. Budget Fiscal 12-13
Budget Item									
FTE	219.00	0.00	(4.00)	215.00	0.00	(4.00)	215.00	215.00	215.00
Personal Services	12,150,350	480,710	(189,181)	12,441,879	485,405	(189,181)	12,446,574	24,888,453	
Operating Expenses	3,755,737	(79,587)	0	3,676,150	(76,505)	0	3,679,232	7,355,382	
Total Costs	\$15,906,087	\$401,123	(\$189,181)	\$16,118,029	\$408,900	(\$189,181)	\$16,125,806	\$32,243,835	
General Fund	15,468,028	398,856	(189,181)	15,677,703	409,421	(189,181)	15,688,268	31,365,971	
State/Other Special	438,059	2,267	0	440,326	(521)	0	437,538	877,864	
Total Funds	\$15,906,087	\$401,123	(\$189,181)	\$16,118,029	\$408,900	(\$189,181)	\$16,125,806	\$32,243,835	

Sub-Program Description

This subprogram includes adult probation and parole, day reporting, and intensive supervision officers who supervise offenders who are in the community.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category		General Fund				Total Funds			
Budget Item		Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent Of Budget
Base Budget	15,468,028	15,468,028	30,936,056	98.63%	15,906,087	15,906,087	31,812,174	98.66%	
Statewide PL Adjustments	289,356	299,921	589,277	1.88%	291,623	299,400	591,023	1.83%	
Other PL Adjustments	109,500	109,500	219,000	0.70%	109,500	109,500	219,000	0.68%	
New Proposals	(189,181)	(189,181)	(378,362)	(1.21%)	(189,181)	(189,181)	(378,362)	(1.17%)	
Total Budget	\$15,677,703	\$15,688,268	\$31,365,971		\$16,118,029	\$16,125,806	\$32,243,835		

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments

FTE	Fiscal 2012			Total Funds	FTE	Fiscal 2013			Total Funds
	General Fund	State Special	Federal Special			General Fund	State Special	Federal Special	
Personal Services				1,007,008					1,011,893
Vacancy Savings				(526,298)					(526,488)
Inflation/Deflation				(189,087)					(186,005)
Total Statewide Present Law Adjustments	\$289,356	\$2,267	\$0	\$291,623		\$299,921	(\$521)	\$0	\$299,400
DP 209 - Increase SCRAM Units by 20	0.00	109,500	0	0	109,500	0.00	109,500	0	0
Total Other Present Law Adjustments	0.00	\$109,500	\$0	\$109,500		0.00	\$109,500	\$0	\$109,500
Grand Total All Present Law Adjustments	0.00	\$398,856	\$2,267	\$0	\$401,123	0.00	\$409,421	(\$521)	\$0
									\$408,900

DP 209 - Increase SCRAM Units by 20 - This decision package requests funding for Secure Continuous Remote Alcohol Monitor (SCRAM) units that provide 24 hour a day, 7 day per week, electronic monitoring of a driving under the influence (DUI) offender's blood alcohol levels. The units would be used for offenders who are in the community under probation and parole supervision.

New Proposals

The "New Proposals" table summarizes all new proposals requested by the Governor. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

Sub Program	FTE	Fiscal 2012			Total Funds	FTE	Fiscal 2013			Total Funds
		General Fund	State Special	Federal Special			General Fund	State Special	Federal Special	
DP 55400 - ACCD FTE Reductions	04	(4.00)	(189,181)	0	0	(189,181)	(4.00)	(189,181)	0	0
Total	(4.00)	(\$189,181)	\$0	\$0	(\$189,181)	(4.00)	(\$189,181)	\$0	\$0	(\$189,181)

DP 55400 - ACCD FTE Reductions - The executive recommends a 4% reduction of personal services funded with general fund.

**LFD
ISSUE**
Positions Not Specified

The agency has not specified which positions or types of positions would be included in this reduction. The agency did indicate that FTE reductions would begin with review of vacant positions. Without identification of specific positions or types of positions to be eliminated, it is not possible to determine the potential impact of these reductions.

The FTE in this division are primarily probation and parole staff (officers and support staff). A reduction in officers would increase the caseload for existing officers and may impact the officer's ability to complete supervision checks and other activities as frequently as desirable. The impact of a reduction in officers would be affected by the size of the caseload and the risk posed by offenders being supervised. Higher risk offenders may require that officers have a lower caseload.

Sub-Program Details

TREATMENT UNIT 05

Sub-Program Proposed Budget

The following table summarizes the total executive budget for the sub-program by year, type of expenditure, and source of funding.

Sub-Program Proposed Budget		Base Budget Fiscal 2010	PL Base Adjustment Fiscal 2012	New Proposals Fiscal 2012	Total Exec. Budget Fiscal 2012	PL Base Adjustment Fiscal 2013	New Proposals Fiscal 2013	Total Exec. Budget Fiscal 2013	Total Exec. Budget Fiscal 12-13
Budget Item									
Operating Expenses	15,009,823	1,746,671		0	16,756,494	1,746,904		0	16,756,727
Total Costs	\$15,009,823	\$1,746,671		\$0	\$16,756,494	\$1,746,904		\$0	\$16,756,727
General Fund	15,009,823	1,746,671		0	16,756,494	1,746,904		0	16,756,727
Total Funds	\$15,009,823	\$1,746,671		\$0	\$16,756,494	\$1,746,904		\$0	\$16,756,727
									\$33,513,221

Sub-Program Description

This subprogram includes the costs of contracted services that provide treatment to offenders including chemical dependency (alcohol and drug) treatment beds in Butte and Billings, methamphetamine treatment beds in Boulder and Lewistown, and driving under the influence (DUI) treatment beds in Warm Springs and Glendive.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent Of Budget
Base Budget	15,009,823	15,009,823	30,019,646	89.58%	15,009,823	15,009,823	30,019,646	89.58%
Statewide PL Adjustments	52	285	337	0.00%	52	285	337	0.00%
Other PL Adjustments	1,746,619	1,746,619	3,493,238	10.42%	1,746,619	1,746,619	3,493,238	10.42%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$16,756,494	\$16,756,727	\$33,513,221		\$16,756,494	\$16,756,727	\$33,513,221	

Present Law Adjustments

The “Present Law Adjustments” table shows the changes to the adjusted base budget proposed by the executive. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments

	Fiscal 2012					Fiscal 2013				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Inflation/Deflation					52					285
Total Statewide Present Law Adjustments		\$52	\$0	\$0	\$52		\$285	\$0	\$0	\$285
DP 201 - Annualize Treatment Beds	0.00	677,431	0	0	677,431	0.00	677,431	0	0	677,431
DP 207 - Population Bed Expansion	0.00	1,054,850	0	0	1,054,850	0.00	1,054,850	0	0	1,054,850
DP 210 - ACCD MCE Rate Increases	0.00	14,338	0	0	14,338	0.00	14,338	0	0	14,338
Total Other Present Law Adjustments	0.00	\$1,746,619	\$0	\$0	\$1,746,619	0.00	\$1,746,619	\$0	\$0	\$1,746,619
Grand Total All Present Law Adjustments	0.00	\$1,746,671	\$0	\$0	\$1,746,671	0.00	\$1,746,904	\$0	\$0	\$1,746,904

DP 201 - Annualize Treatment Beds - This decision package requests funding to annualize the costs of community treatment facility beds to include funding for 100% utilization of all contracted treatment beds. This includes beds that will become operational in FY 2011.

**LFD
COMMENT**

Please refer to the program summary for additional information about anticipated population increases and related budget requests.

DP 207 - Population Bed Expansion - This decision package requests funding to increase the number of community facility beds available.

**LFD
ISSUE**Type of Bed not Specified

This decision package requests funding for 34 additional community correctional beds but does not specify what type of facility or bed is proposed. Additionally, these beds are funded for the entirety of FY 2012. Given that the requested increase is not specific, the department may not be able to define program specifics, enter a contract, and have a facility operational by July 1, 2011. This will be particularly difficult because the department will not know if this request is funded until the legislature adjourns in late April 2011.

The legislature may wish to:

- Request that the department provide more specific information about this increase prior to taking action on the decision package
- Delay funding for these beds to reflect an operational date later than July 1, 2011

DP 210 - ACCD MCE Rate Increases - This decision package requests funding for Montana Correction Enterprises (MCE) requested rate increases for food and laundry services.

**LFD
ISSUE**Request Related to Proprietary Rate Increase

This decision package requests funding to support increased costs expected because the proprietary fund operated by Montana Correctional Enterprises has requested a rate increase. The legislature may wish to take action on the MCE rate prior to acting on this decision package.

Sub-Program Details

MASC PROGRAM 06

Sub-Program Proposed Budget

The following table summarizes the total executive budget for the sub-program by year, type of expenditure, and source of funding.

Sub-Program Proposed Budget		Base Budget Fiscal 2010	PL Base Adjustment Fiscal 2012	New Proposals Fiscal 2012	Total Exec. Budget Fiscal 2012	PL Base Adjustment Fiscal 2013	New Proposals Fiscal 2013	Total Exec. Budget Fiscal 2013	Total Exec. Budget Fiscal 12-13
Budget Item									
FTE	2.50	0.00	0.00	2.50	0.00	0.00	2.50	2.50	2.50
Personal Services	187,601	(19,844)	0	167,757	(19,483)	0	168,118	335,875	
Operating Expenses	3,544,079	127,671	0	3,671,750	127,687	0	3,671,766	7,343,516	
Total Costs	\$3,731,680	\$107,827	\$0	\$3,839,507	\$108,204	\$0	\$3,839,884	\$7,679,391	
General Fund	3,731,680	107,827	0	3,839,507	108,204	0	3,839,884	7,679,391	
Total Funds	\$3,731,680	\$107,827	\$0	\$3,839,507	\$108,204	\$0	\$3,839,884	\$7,679,391	

Sub-Program Description

This subprogram includes male assessment and sanction services provided at the Missoula Assessment and Sanction Center located in the facility built as a regional prison.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category		General Fund				Total Funds			
Budget Item		Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent Of Budget
Base Budget		3,731,680	3,731,680	7,463,360	97.19%	3,731,680	3,731,680	7,463,360	97.19%
Statewide PL Adjustments		(20,910)	(20,533)	(41,443)	(0.54%)	(20,910)	(20,533)	(41,443)	(0.54%)
Other PL Adjustments		128,737	128,737	257,474	3.35%	128,737	128,737	257,474	3.35%
New Proposals		0	0	0	0.00%	0	0	0	0.00%
Total Budget		\$3,839,507	\$3,839,884	\$7,679,391		\$3,839,507	\$3,839,884	\$7,679,391	

Present Law Adjustments

The “Present Law Adjustments” table shows the changes to the adjusted base budget proposed by the executive. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments

FTE	Fiscal 2012			Total Funds	Fiscal 2013			Total Funds
	General Fund	State Special	Federal Special		FTE	General Fund	State Special	
Personal Services				(12,854)				(12,479)
Vacancy Savings				(6,990)				(7,004)
Inflation/Deflation				(1,066)				(1,050)
Total Statewide Present Law Adjustments	(\$20,910)		\$0	\$0		(\$20,533)		\$0
DP 204 - Annualize MASC Beds	0.00	128,737	0	0	128,737	0.00	128,737	0
Total Other Present Law Adjustments	0.00	\$128,737		\$0	\$128,737	0.00	\$128,737	
Grand Total All Present Law Adjustments	0.00	\$107,827		\$0	\$107,827	0.00	\$108,204	
							\$0	\$0
								\$108,204

DP 204 - Annualize MASC Beds - This decision package requests funding to annualize the costs of the Missoula Assessment and Treatment facility beds to include funding for 100% utilization of all contracted beds.



Please refer to the program summary for additional information about anticipated population increases and related budget requests.

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison		Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
Budget Item									
FTE		702.04	702.04	699.04	699.04	702.04	699.04	(3.00)	(0.43%)
Personal Services	36,734,843	38,167,411	37,522,469	37,534,145	74,902,254	75,056,614	154,360	0.21%	
Operating Expenses	35,718,683	32,740,510	37,554,960	42,064,522	68,459,193	79,619,482	11,160,289	16.30%	
Equipment & Intangible Assets	201,078	207,507	687,078	245,078	408,585	932,156	523,571	128.14%	
Transfers	719	0	719	719	719	1,438	719	100.00%	
Total Costs	\$72,655,323	\$71,115,428	\$75,765,226	\$79,844,464	\$143,770,751	\$155,609,690	\$11,838,939	8.23%	
General Fund	72,516,318	70,919,077	75,626,221	79,705,459	143,435,395	155,331,680	11,896,285	8.29%	
State Special	129,832	157,543	129,832	129,832	287,375	259,664	(27,711)	(9.64%)	
Federal Special	9,173	38,808	9,173	9,173	47,981	18,346	(29,635)	(61.76%)	
Total Funds	\$72,655,323	\$71,115,428	\$75,765,226	\$79,844,464	\$143,770,751	\$155,609,690	\$11,838,939	8.23%	

Program Description

The Secure Facilities Program includes the Montana State Prison (Deer Lodge), Montana Women's Prison (Billings), and contract bed facilities including: Dawson County Correctional Facility (Glendive), Cascade County Regional Prison (Great Falls), and Crossroads Correctional Center (Shelby). Approximately 2,300 male and 200 female inmates are incarcerated in these facilities.

Program Highlights

Secure Custody Facilities
Major Budget Highlights
<ul style="list-style-type: none"> ◆ Funding for the program increases 8.2% or (\$11.8 million) primarily due to present law requests for increased general fund support for anticipated offender population increases including: <ul style="list-style-type: none"> • Annualization of current contracts for prison and county jail beds • Addition of 20 assisted living beds for the biennium • Addition of 144 beds in FY 2013 by relocating the male assessment and sanction center and returning the Missoula regional facility to prison use
Major LFD Issues
<ul style="list-style-type: none"> ◆ The increase in beds supported by the executive budget is less than the estimated increase in average daily population (ADP) ◆ Specific positions or types of positions included in the personal services reduction have not been identified ◆ Additional funding is requested for services purchased from Montana Correctional Enterprises

Program Narrative

The secure care program includes housing of offenders in prison including Montana State Prison, Montana Women's Prison, and contracted prison facilities. Montana State Prison (MSP) for male offenders is the largest facility with an operational capacity of 1,485 inmates while regional prison facilities in Glendive and Great Falls that house about 145

inmates are the smallest facilities. Montana Women's Prison (MWP), the only female prison in the state, has an operational capacity of 194. The cost of contracted prison beds also includes the cost of housing offenders in county jails. The department is responsible for the cost of housing offenders after conviction.

Funding for the division increases 8.2% or \$11.8 million between the two biennia due primarily to present law adjustments for an increase in prison beds related to population growth, overtime and inmate pay which are zero based for budgeting purposes, and other cost increases at the two state institutions. The primary cost drivers for this program include the average daily population (ADP) of offenders to be housed, operating cost increases at state facilities, and per diem rates negotiated with regional prisons, county jails, and other contractors.

The figure shows the projected increase in the average daily population (ADP) of offenders for male and female prisons. The department projects that the ADP of male offenders will increase by 3.1% per year and female offenders 1.7% per year. At this time the MWP has available operating capacity to accommodate this increase. However, the department estimates indicate that the male prison capacity is 2,396 and that the projected ADP for male prisons will exceed the system capacity currently available.

Summary of Secure Custody Facilities Average Daily Population (ADP)				
Segment	Actual FY 2010	Actual FY 2011	Department Projection FY 2012	Department Projection FY 2013
Male Prison	2,342	2,415	2,490	2,567
% Increase		3.1%	3.1%	3.1%
Female Prison	171	174	177	180
% Increase		1.8%	1.7%	1.7%

Female prison ADP includes in FY 2010 the Intensive Challenge Program that was moved to a different facility and county jail holds.

The executive budget proposes the addition of 20 secure assisted living beds at an undetermined location in FY 2012 and 144 prison beds in FY 2013 for a total of 164 additional beds. The prison beds would be created by contracting with a provider to operate the male assessment and sanction program (currently, the Missoula Assessment and Sanction Center) at a facility other than the regional prison in Missoula. The facility in Missoula would be returned to use as a male prison, which is consistent with the original purpose of the structure as a regional prison. The executive budget does not include adequate funding to support the level of male prison population that is projected.

There are several risks associated with the executive budget including:

- o If population grows as estimated, there is not funding or the existence of an adequate number of male prison beds within the current system
- o The department will be challenged to create programs that divert offenders growth from male prisons. This may result in more serious or higher risk offenders being supervised in community settings
- o Diverting more serious offenders may have a negative impact on offender recidivism rates, which in turn may increase system stress and demand for prison beds

5% Reduction Plan Executive

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

The 5% reduction plan for this program includes general fund reductions totaling \$3.6 million. One of the items, a 4% reduction in personal services equating to \$498,190 or 8.00 FTE, is included in the executive budget. The largest items in the plan include:

- o Reducing by 50 the number of beds used at the private prison in Shelby, \$1.2 million
- o Elimination of the education program at MSP, about \$0.5 million and 9.00 FTE
- o Elimination of the chemical dependency treatment program at MSP, about \$0.4 million and 6.00 FTE
- o Reduction in supplies, \$0.3 million

5% Reduction Plan by Division Secure Care			
Item	FTE	Gen Fund	State Spec Revenue
4% FTE Reduction	8.00	\$498,190	
Montana State Prison:			
Convert Dental Contract to FTE		65,186	
Terminate Staff Transportation Program		140,000	
Terminate Pacific Institute Contract		100,000	
Utility Savings Program		100,000	
Supplies		300,000	
Eliminate Education Program	9.00	512,313	
Eliminate Chemical Depend Treatment	6.00	368,695	
Reduce Contracted Services		100,000	
Reduce 50 beds at Crossroads Correctional		1,166,913	
MWP - Close Phase 1 Unit		267,129	
Inmate Pay		6,347	
Staff Transportation		\$145	
	<u>23.00</u>	<u>\$3,618,426</u>	<u>\$6,492</u>

○ Closing a unit and reducing by 20 the number of beds at MWP, about \$0.3 million and 5.00 FTE
 In order to realize the savings associated with some items in the 5% reduction plan, the number of offenders housed in the secure facilities must decrease and not result in an increase in the number of offenders housed in other segments of the system. Potential impacts of these reductions may include:

- Increased numbers and higher risk offenders may be supervised on probation and parole
- Offenders would not be able to complete a general educational development (GED) program while in prison, increasing the difficulty in successfully locating work and transitioning to life outside the institution
- Offenders with court ordered chemical dependency needs would be required to wait until placement in a community based treatment program was available, resulting in delayed programming and longer incarceration

Funding

The following table shows program funding, by source, for the base year and for the 2013 biennium as recommended by the Governor.

Program Funding Table Secure Custody Facilities						
Program Funding	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
01000 Total General Fund	\$ 72,516,318	99.8%	\$ 75,626,221	99.8%	\$ 79,705,459	99.8%
01100 General Fund	72,516,318	99.8%	75,626,221	99.8%	79,705,459	99.8%
02000 Total State Special Funds	129,832	0.2%	129,832	0.2%	129,832	0.2%
02339 Inmate Welfare/Inmate Pay	126,933	0.2%	126,933	0.2%	126,933	0.2%
02355 Miscellaneous Fines And Fees	2,899	0.0%	2,899	0.0%	2,899	0.0%
03000 Total Federal Special Funds	9,173	0.0%	9,173	0.0%	9,173	0.0%
03315 Misc Federal Grants	9,173	0.0%	9,173	0.0%	9,173	0.0%
Grand Total	<u>\$ 72,655,323</u>	<u>100.0%</u>	<u>\$ 75,765,226</u>	<u>100.0%</u>	<u>\$ 79,844,464</u>	<u>100.0%</u>

This division is funded almost entirely by the general fund (99.8%). State special funds are from the sale of canteen items to inmates and support the cost of purchasing canteen items. Federal funds were received for the purchase of bullet proof vests.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	72,516,318	72,516,318	145,032,636	93.37%	72,655,323	72,655,323	145,310,646	93.38%
Statewide PL Adjustments	(910,800)	(848,859)	(1,759,659)	(1.13%)	(1,010,800)	(948,859)	(1,959,659)	(1.26%)
Other PL Adjustments	4,193,893	8,536,190	12,730,083	8.20%	4,293,893	8,636,190	12,930,083	8.31%
New Proposals	(173,190)	(498,190)	(671,380)	(0.43%)	(173,190)	(498,190)	(671,380)	(0.43%)
Total Budget	\$75,626,221	\$79,705,459	\$155,331,680		\$75,765,226	\$79,844,464	\$155,609,690	

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments

	Fiscal 2012					Fiscal 2013					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services					687,189					699,630	
Vacancy Savings					(1,496,917)					(1,497,379)	
Inflation/Deflation					(201,072)					(151,110)	
Total Statewide Present Law Adjustments	(\$910,800)	(\$100,000)		\$0	(\$1,010,800)		(\$848,859)	(\$100,000)		\$0	(\$948,859)
DP 301 - MWP Overtime	0.00	315,320	0	0	315,320	0.00	315,320	0	0	315,320	
DP 302 - MWP Inmate Pay	0.00	36,383	0	0	36,383	0.00	36,383	0	0	36,383	
DP 303 - MWP Correctional Officers with overtime offset	2.00	0	0	0	0	2.00	0	0	0	0	
DP 304 - Increased contract services	0.00	20,000	0	0	20,000	0.00	20,000	0	0	20,000	
DP 305 - MSP MCE Rate Increase	0.00	151,279	0	0	151,279	0.00	151,279	0	0	151,279	
DP 307 - MSP Overtime	0.00	1,297,717	0	0	1,297,717	0.00	1,297,717	0	0	1,297,717	
DP 308 - MSP Inmate Pay	0.00	194,434	100,000	0	294,434	0.00	194,434	100,000	0	294,434	
DP 311 - Equipment - Security - OTO -	0.00	161,000	0	0	161,000	0.00	44,000	0	0	44,000	
DP 313 - NCCHC Accreditation	0.00	18,000	0	0	18,000	0.00	10,000	0	0	10,000	
DP 315 - Annualizing Beds for Contract Beds	0.00	1,227,570	0	0	1,227,570	0.00	1,227,570	0	0	1,227,570	
DP 316 - Population Growth	0.00	620,500	0	0	620,500	0.00	5,088,100	0	0	5,088,100	
DP 317 - Mental Health Technicians	3.00	151,690	0	0	151,690	3.00	151,387	0	0	151,387	
Total Other Present Law Adjustments	5.00	\$4,193,893	\$100,000	\$0	\$4,293,893	5.00	\$8,536,190	\$100,000	\$0	\$8,636,190	
Grand Total All Present Law Adjustments	5.00	\$3,283,093		\$0	\$3,283,093	5.00	\$7,687,331		\$0	\$7,687,331	

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

- o **Pay Plan Exceptions** - The agency pay plan rules do not extend the opportunity for “exceptions” per se. There is some latitude which will likely be stretched by the challenges of the coming biennium.
- o **Program Specific Obstacles** - Montana State Prison (MSP) includes some of the most challenging to recruit and retain occupations including doctors, nurses, dental, and mental health workers. Those occupations will continue to be problematic unless there is supply of qualified and job seeking candidates willing to work in the prison environment. MSP also has difficulty attracting and retaining professional counselor staff including chemical dependency and sex offender therapists because of the shortage of qualified individuals in these occupations regionally and the highly competitive recruiting environment for such positions. A stagnant base rate of pay will jeopardize the progress made in recruiting new correctional officers in small labor market areas and potentially lead to a backlog of vacancies to fill. Vacancies drive up overtime costs in a 24 hour per day, 7 day per week facility.
- o **Vacancy** – Correctional officer compensation is below market compared to surrounding states. These positions require shift work with difficult offenders and exposure to risks. At 18%, it is the highest turnover occupation in the agency. Under normal economic conditions Deer Lodge has been a difficult recruiting environment due to the lack of housing combined with the need to commute up to 50 miles. Additionally, medical positions have traditionally proven difficult for recruitment purposes with similar concerns as correctional officers. Collective bargaining agreements with correctional officers and most other line occupations make any kind of

individualized pay adjustments virtually impossible. Some assistance with transportation had been innovated in a previous biennium. There presently are not alternative shift options for positions other than nurses. Pay exceptions for organized nursing staff have been negotiated in a previous biennium. Any vacancy in correctional officer ranks has a tendency to drive up overtime costs. Turnover impacts facility effectiveness, safety, and costs due to recruitment of inexperienced staff, the need for substantive and expensive training, and added safety and security hazards while new staff gain experience in the correctional setting.

- o **Legislatively Applied Vacancy Savings** - Montana State Prison and Montana Women's Prison direct care positions were exempt from the 7% vacancy savings applied to the 2011 biennium budget but were subject to a 4% vacancy savings rate on non direct care positions. The program was able to achieve the budgeted vacancy savings rate.
- o **Pay/Position Changes** - MSP is dominated by unionized correctional officer positions that continued to receive career ladder adjustments through both biennia. Routine reclassification affected one nurse and the librarian at MSP.
- o **Retirements** - It's difficult to project who will retire based on the variety of age and service criteria and potential service purchase options. Based upon lists from the retirement systems, there are 147 employees eligible for retirement. This program has a projected liability of about \$1.4 million. The department predicted three key upper management retirements last biennium, none of which occurred. Those positions remain the most critical and likely to retire. The Human Resources Division is taking the lead in development of career and leadership development programs to provide for the need to recruit replacements.

**LFD
COMMENT**

Key managers eligible for retirement include the warden and deputy wardens at Montana State Prison.

Increases in the statewide present law adjustment include fully funding vacant positions, pay changes, and health insurance cost increases that are offset by the removal from the base budget of the costs of items that are zero based for budgeting purposes such as overtime, holidays worked, and inmate pay.

New Proposals

The "New Proposals" table summarizes all new proposals requested by the Governor. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals											
Fiscal 2012					Fiscal 2013						
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
DP 302 - Security Control System OTO/Bien											
03 0.00 325,000			0	0	325,000	0.00	0	0	0	0	
DP 55400 - MWP FTE Reductions											
03 (1.00) (36,333)			0	0	(36,333)	(1.00)	(36,333)	0	0	(36,333)	
DP 55401 - FTE Reductions MSP - Contract Beds											
03 (7.00) (461,857)			0	0	(461,857)	(7.00)	(461,857)	0	0	(461,857)	
Total	(8.00)	(\$173,190)			\$0	(\$173,190)	(8.00)	(\$498,190)		\$0	(\$498,190)

Sub-Program Details

MONTANA STATE PRISON 01

Sub-Program Proposed Budget

The following table summarizes the total executive budget for the sub-program by year, type of expenditure, and source of funding.

Sub-Program Proposed Budget		Base Budget Fiscal 2010	PL Base Adjustment Fiscal 2012	New Proposals Fiscal 2012	Total Exec. Budget Fiscal 2012	PL Base Adjustment Fiscal 2013	New Proposals Fiscal 2013	Total Exec. Budget Fiscal 2013	Total Exec. Budget Fiscal 12-13
Budget Item									
FTE	625.77	3.00	(7.00)	621.77	3.00	(7.00)	621.77	621.77	621.77
Personal Services	32,354,295	1,323,912	(461,857)	33,216,350	1,332,396	(461,857)	33,224,834	66,441,184	
Operating Expenses	10,750,052	(15,156)	0	10,734,896	19,455	0	10,769,507	21,504,403	
Equipment & Intangible Assets	201,078	161,000	0	362,078	44,000	0	245,078	607,156	
Transfers	719	0	0	719	0	0	719	1,438	
Total Costs	\$43,306,144	\$1,469,756	(\$461,857)	\$44,314,043	\$1,395,851	(\$461,857)	\$44,240,138	\$88,554,181	
General Fund	43,167,139	1,469,756	(461,857)	44,175,038	1,395,851	(461,857)	44,101,133	88,276,171	
State/Other Special	129,832	0	0	129,832	0	0	129,832	259,664	
Federal Special	9,173	0	0	9,173	0	0	9,173	18,346	
Total Funds	\$43,306,144	\$1,469,756	(\$461,857)	\$44,314,043	\$1,395,851	(\$461,857)	\$44,240,138	\$88,554,181	

Sub-Program Description

This subprogram consists of the state owned and operated male prison (Montana State Prison) in Deer Lodge.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category				General Fund				Total Funds			
Budget Item	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent Of Budget			
Base Budget	43,167,139	43,167,139	86,334,278	97.80%	43,306,144	43,306,144	86,612,288	97.81%			
Statewide PL Adjustments	(504,364)	(452,966)	(957,330)	(1.08%)	(604,364)	(552,966)	(1,157,330)	(1.31%)			
Other PL Adjustments	1,974,120	1,848,817	3,822,937	4.33%	2,074,120	1,948,817	4,022,937	4.54%			
New Proposals	(461,857)	(461,857)	(923,714)	(1.05%)	(461,857)	(461,857)	(923,714)	(1.04%)			
Total Budget	\$44,175,038	\$44,101,133	\$88,276,171		\$44,314,043	\$44,240,138	\$88,554,181				

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments				Fiscal 2012				Fiscal 2013				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds			
Personal Services				910,704					919,820			
Vacancy Savings				(1,330,633)					(1,330,962)			
Inflation/Deflation				(184,435)					(141,824)			
Total Statewide Present Law Adjustments				(\$504,364)	(\$100,000)		\$0	(\$604,364)		(\$452,966)	(\$100,000)	
DP 305 - MSP MCE Rate Increase	0.00	151,279	0	0	151,279	0.00	151,279	0	0	151,279		
DP 307 - MSP Overtime	0.00	1,297,717	0	0	1,297,717	0.00	1,297,717	0	0	1,297,717		
DP 308 - MSP Inmate Pay	0.00	194,434	100,000	0	294,434	0.00	194,434	100,000	0	294,434		
DP 311 - Equipment - Security - OTO -	0.00	161,000	0	0	161,000	0.00	44,000	0	0	44,000		
DP 313 - NCCHC Accreditation	0.00	18,000	0	0	18,000	0.00	10,000	0	0	10,000		
DP 317 - Mental Health Technicians	3.00	151,690	0	0	151,690	3.00	151,387	0	0	151,387		
Total Other Present Law Adjustments	3.00	\$1,974,120	\$100,000	\$0	\$2,074,120	3.00	\$1,848,817	\$100,000	\$0	\$1,948,817		
Grand Total All Present Law Adjustments	3.00	\$1,469,756		\$0	\$0	\$1,469,756	3.00	\$1,395,851	\$0	\$0	\$1,395,851	

DP 305 - MSP MCE Rate Increase - This decision package requests increased funding to support anticipated Montana Correctional Enterprise rate increases for laundry and cook/chill services.

**LFD
ISSUE**
Request Related to Proprietary Rate Increase

This decision package request funding to support increased costs expected because the proprietary fund operated by Montana Correctional Enterprises (MCE) has requested a rate increase for the food factory and industries laundry and because the prison plans to have MCE begin doing inmate personal laundry.

The legislature may wish to take action on the requested rate increase in MCE prior to acting on this decision package. Additional information on the proposed rate increases is included in the narrative for the each of the proprietary funds.

DP 307 - MSP Overtime - This decision package requests funding for overtime and holidays worked, which are zero based budget items.

**LFD
COMMENT**

This decision package requests funding for overtime that is 5% or \$61,253 greater than was expended in FY 2010.

DP 308 - MSP Inmate Pay - This decision package requests funding for inmate pay, which is a zero based budget item.

DP 311 - Equipment - Security - OTO - - This decision package requests one time only funding to purchase equipment. The department plans to purchase the following equipment:

- o \$40,000 for food service back-up generators for the high side, low side, and industries diner
- o \$15,000 to replace a dish machine in the industries diner
- o \$12,000 to replace the metal detector used to clear visitors
- o \$50,000 to replace a recreation yard associated with one of the locked housing units
- o \$44,000 in each year of the biennium to replace three vehicles used for inmate transportation and perimeter security

DP 313 - NCCHC Accreditation - This decision package requests funding for the infirmary at Montana State Prison to receive National Commission on Correctional Health Care (NCCHC) accreditation. This funding would cover the travel and per diem costs of two site visits by a three person accreditation team, training at an education convention for two or three staff, and the annual accreditation fee. Achieving NCCHC accreditation is a component of a litigation settlement agreement (Langford v Racicot) that the department has been working toward for a number of years.

DP 317 - Mental Health Technicians - This decision package requests funding for 3.00 FTE mental health technicians for the Montana State Prison. The department is requesting continued funding of positions that were added as modified FTE during the 2011 biennium. MSP would:

- o Increase the number of Mental Health Technicians from 5.00 FTE to 8.00 FTE
- o Extend the number of hours a mental health technician is available from 14 hours per day Monday through Friday and 10 hours per day on weekends to 24 hours per day by adding coverage from 8 p.m. to 6 a.m.
- o Assign one of the technicians to be a lead worker who would assist the psychiatric nurse supervisor with training and monitoring the mental health technicians which would allow the psychiatric nurse supervisor to focus on policy and procedure reviews and assist with obtaining National Commission on Correctional Health Care (NCCHC) accreditation
- o Establish a program for selected correctional officer training and specialization in the application of security principles to the needs of the psychiatric inmate population. Goals of the training would include to increase awareness of the special needs of psychiatrically troubled inmates and increase supportive listening and assessment skills (without compromising the security needs of the institution)

New Proposals

The "New Proposals" table summarizes all new proposals requested by the Governor. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

Sub Program	FTE	Fiscal 2012					Fiscal 2013				
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
DP 55401 - FTE Reductions MSP - Contract Beds											
01	(7.00)	(461,857)	0	0	(461,857)	(7.00)	(461,857)	0	0	(461,857)	
Total	(7.00)	(\$461,857)	\$0	\$0	(\$461,857)	(7.00)	(\$461,857)	\$0	\$0	(\$461,857)	

DP 55401 - FTE Reductions MSP - Contract Beds - The executive recommends a 4% reduction of personal services funded with general fund.

LFD ISSUE

Positions Not Specified

The agency has not specified which positions or types of positions would be included in this reduction. The agency did indicate that FTE reductions would begin with review of vacant positions. Without identification of specific positions or types of positions to be eliminated, it is not possible to determine the potential impact of these reductions.

Sub-Program Details

MONTANA WOMENS PRISON 02

Sub-Program Proposed Budget

The following table summarizes the total executive budget for the sub-program by year, type of expenditure, and source of funding.

Sub-Program Proposed Budget		Base Budget Fiscal 2010	PL Base Adjustment Fiscal 2012	New Proposals Fiscal 2012	Total Exec. Budget Fiscal 2012	PL Base Adjustment Fiscal 2013	New Proposals Fiscal 2013	Total Exec. Budget Fiscal 2013	Total Exec. Budget Fiscal 12-13
Budget Item									
FTE	69.27	2.00	(1.00)	70.27	2.00	(1.00)	70.27	70.27	70.27
Personal Services	3,925,062	(16,840)	(36,333)	3,871,889	(14,130)	(36,333)	3,874,599	7,746,488	
Operating Expenses	2,087,993	3,073	0	2,091,066	10,333	0	2,098,326	4,189,392	
Equipment & Intangible Assets	0	0	325,000	325,000	0	0	0	325,000	
Total Costs	\$6,013,055	(\$13,767)	\$288,667	\$6,287,955	(\$3,797)	(\$36,333)	\$5,972,925	\$12,260,880	
General Fund	6,013,055	(13,767)	288,667	6,287,955	(3,797)	(36,333)	5,972,925	12,260,880	
Total Funds	\$6,013,055	(\$13,767)	\$288,667	\$6,287,955	(\$3,797)	(\$36,333)	\$5,972,925	\$12,260,880	

Sub-Program Description

This subprogram consists of the state owned and operated female prison (Montana Women's Prison) in Billings.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent Of Budget
Base Budget	6,013,055	6,013,055	12,026,110	98.09%	6,013,055	6,013,055	12,026,110	98.09%
Statewide PL Adjustments	(385,470)	(375,500)	(760,970)	(6.21%)	(385,470)	(375,500)	(760,970)	(6.21%)
Other PL Adjustments	371,703	371,703	743,406	6.06%	371,703	371,703	743,406	6.06%
New Proposals	288,667	(36,333)	252,334	2.06%	288,667	(36,333)	252,334	2.06%
Total Budget	\$6,287,955	\$5,972,925	\$12,260,880		\$6,287,955	\$5,972,925	\$12,260,880	

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
Fiscal 2012					Fiscal 2013					
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services				(220,351)					(217,529)	
Vacancy Savings				(148,192)					(148,304)	
Inflation/Deflation				(16,927)					(9,667)	
Total Statewide Present Law Adjustments	(\$385,470)			\$0		(\$385,470)		\$0		(\$375,500)
DP 301 - MWP Overtime	0.00	315,320	0	0	315,320	0.00	315,320	0	0	315,320
DP 302 - MWP Inmate Pay	0.00	36,383	0	0	36,383	0.00	36,383	0	0	36,383
DP 303 - MWP Correctional Officers with overtime offset	2.00	0	0	0	0	2.00	0	0	0	0
DP 304 - Increased contract services	0.00	20,000	0	0	20,000	0.00	20,000	0	0	20,000
Total Other Present Law Adjustments	2.00	\$371,703		\$0		\$371,703		2.00		\$371,703
Grand Total All Present Law Adjustments	2.00	(\$13,767)		\$0		(\$13,767)		2.00		(\$3,797)

DP 301 - MWP Overtime - This decision package requests funding for overtime and holidays worked, which are zero based budget items.

LFD COMMENT

This decision package requests funding for overtime that is 4.1% or \$12,406 greater than was expended in FY 2010.

DP 302 - MWP Inmate Pay - This decision package requests funding for inmate pay, which is a zero based budget item.

DP 303 - MWP Correctional Officers with overtime offset - This decision package request 2.00 FTE correctional officers and funding would come from a reduction in overtime.

DP 304 - Increased contract services - This decision package requests funding for increases in two existing contracts, the religious services coordinator (\$5,000) and the school district for summer educational services (\$15,000). The increased funding would provide additional services to the facility.

New Proposals

The “New Proposals” table summarizes all new proposals requested by the Governor. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals										
Fiscal 2012					Fiscal 2013					
Sub Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 302 - Security Control System OTO/Bien	02	0.00	325,000	0	325,000	0.00	0	0	0	0
DP 55400 - MWP FTE Reductions	02	(1.00)	(36,333)	0	(36,333)	(1.00)	(36,333)	0	0	(36,333)
Total	(1.00)	\$288,667		\$0	\$288,667	(1.00)	(\$36,333)	\$0	\$0	(\$36,333)

DP 302 - Security Control System OTO/Bien - This decision package requests funding to replace the security system at Montana Women's Prison (MWP). The agency indicates that the current one has failed.

**LFD
COMMENT**

According to department staff, the security system at MWP has had multiple breakdowns, repairs, and software issues. These breakdowns result in the system being operated with emergency keys for a prolonged length of time, which decreases staff efficiency. Also, the call boxes in each cell are incorporated into the system and when the system fails inmates cannot contact control. This situation means that staff must make additional rounds and makes it more difficult for staff to respond to incidents within the facility efficiently. The department is preparing a statement of work and plans to have a consultant review the system and provide recommendations for a replacement system that would be funded by this decision package.

DP 55400 - MWP FTE Reductions - The executive recommends a 4% reduction of personal services funded with general fund.

**LFD
ISSUE**Positions Not Specified

The agency has not specified which positions or types of positions would be included in this reduction. The agency did indicate that FTE reductions would begin with review of vacant positions. Without identification of specific positions or types of positions to be eliminated, it is not possible to determine the potential impact of these reductions.

Sub-Program Details**CONTRACTED BEDS 04****Sub-Program Proposed Budget**

The following table summarizes the total executive budget for the sub-program by year, type of expenditure, and source of funding.

Sub-Program Proposed Budget		Base Budget Fiscal 2010	PL Base Adjustment Fiscal 2012	New Proposals Fiscal 2012	Total Exec. Budget Fiscal 2012	PL Base Adjustment Fiscal 2013	New Proposals Fiscal 2013	Total Exec. Budget Fiscal 2013	Total Exec. Budget Fiscal 12-13
FTE	7.00	0.00	0.00	7.00	0.00	0.00	7.00	7.00	7.00
Personal Services	455,486	(21,256)	0	434,230	(20,774)	0	434,712	868,942	
Operating Expenses	22,880,638	1,848,360	0	24,728,998	6,316,051	0	29,196,689	53,925,687	
Total Costs	\$23,336,124	\$1,827,104	\$0	\$25,163,228	\$6,295,277	\$0	\$29,631,401	\$54,794,629	
General Fund	23,336,124	1,827,104	0	25,163,228	6,295,277	0	29,631,401	54,794,629	
Total Funds	\$23,336,124	\$1,827,104	\$0	\$25,163,228	\$6,295,277	\$0	\$29,631,401	\$54,794,629	

Sub-Program Description

This subprogram includes the costs of secure care beds purchased from contractors including regional prisons in Glendive and Great Falls and a privately owned facility in Shelby.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund—				Total Funds—			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent Of Budget
Base Budget	23,336,124	23,336,124	46,672,248	85.18%	23,336,124	23,336,124	46,672,248	85.18%
Statewide PL Adjustments	(20,966)	(20,393)	(41,359)	(0.08%)	(20,966)	(20,393)	(41,359)	(0.08%)
Other PL Adjustments	1,848,070	6,315,670	8,163,740	14.90%	1,848,070	6,315,670	8,163,740	14.90%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$25,163,228	\$29,631,401	\$54,794,629		\$25,163,228	\$29,631,401	\$54,794,629	

Present Law Adjustments

The “Present Law Adjustments” table shows the changes to the adjusted base budget proposed by the executive. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments				Fiscal 2012				Fiscal 2013			
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds		
Personal Services				(3,164)						(2,661)	
Vacancy Savings				(18,092)						(18,113)	
Inflation/Deflation				290						381	
Total Statewide Present Law Adjustments				(\$20,966)		\$0		\$0		(\$20,393)	
DP 315 - Annualizing Beds for Contract Beds	0.00	1,227,570	0	0	1,227,570	0.00	1,227,570	0	0	0	1,227,570
DP 316 - Population Growth	0.00	620,500	0	0	620,500	0.00	5,088,100	0	0	0	5,088,100
Total Other Present Law Adjustments				0.00		\$1,848,070		\$0		\$1,848,070	
Grand Total All Present Law Adjustments				0.00		\$1,827,104		\$0		\$6,295,277	

DP 315 - Annualizing Beds for Contract Beds - This decision package requests funding to annualize the costs of contract prison beds to include funding for 100% utilization of all contracted beds.

**LFD
COMMENT**

Please refer to the program summary for a discussion of projected population increases and related funding requests.

DP 316 - Population Growth - This decision package requests funding for 20 assisted living beds in both fiscal years and 144 male prison beds in the second year of the biennium. The prison beds would become available by moving the existing Missoula Assessment and Sanction Center from the current facility that was built as a regional prison to a new contractor facility that would be selected via a bid process.

**LFD
COMMENT**

Please refer to the program summary for a discussion of projected population increases and related funding requests.

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison		Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
Budget Item									
FTE	16.25	16.25	16.75	16.75	16.25	16.75	0.50	3.08%	
Personal Services	964,541	1,005,869	939,582	939,083	1,970,410	1,878,665	(91,745)	(4.66%)	
Operating Expenses	2,226,501	2,500,208	2,633,918	2,634,456	4,726,709	5,268,374	541,665	11.46%	
Equipment & Intangible Assets	0	0	0	0	0	0	0	n/a	
Total Costs	\$3,191,042	\$3,506,077	\$3,573,500	\$3,573,539	\$6,697,119	\$7,147,039	\$449,920	6.72%	
General Fund	892,921	953,590	898,185	897,510	1,846,511	1,795,695	(50,816)	(2.75%)	
State Special	1,776,985	1,893,827	2,083,878	2,083,671	3,670,812	4,167,549	496,737	13.53%	
Federal Special	0	88,305	0	0	88,305	0	(88,305)	(100.00%)	
Other	521,136	570,355	591,437	592,358	1,091,491	1,183,795	92,304	8.46%	
Total Funds	\$3,191,042	\$3,506,077	\$3,573,500	\$3,573,539	\$6,697,119	\$7,147,039	\$449,920	6.72%	

Program Description

The Montana Correctional Enterprises (MCE) Division provides vocational education and on the job training to over 400 offenders. MCE programs allow offenders to gain valuable knowledge, life skills, and work experience, helping them to transition back into society.

Program Highlights

Montana Correctional Enterprises
Major Budget Highlights
<ul style="list-style-type: none"> ◆ Funding for the division increases 6.7% (\$450,000) due to increases in state special revenue for increased canteen spending ◆ General fund support for the division decreases 2.8% (\$51,000) primarily due to statewide present law adjustments and 4% reduction in personal services
Major LFD Issues
<ul style="list-style-type: none"> ◆ A requested rate increase for the food factory (and laundry) result in a request for increased general fund support in other units of the agency

Program Narrative

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

The division would reduce general fund spending by \$21,459 by not updating inmate curriculums. Curriculums are normally updated each year so that materials taught are current with changing technologies. Not updating curriculums may impact inmate skill development and future employment.

Funding

The following table shows program funding, by source, for the base year and for the 2013 biennium as recommended by the Governor.

Program Funding Table Mont Correctional Enterprises						
Program Funding	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
01000 Total General Fund	\$ 892,921	28.0%	\$ 898,185	25.1%	\$ 897,510	25.1%
01100 General Fund	892,921	28.0%	898,185	25.1%	897,510	25.1%
02000 Total State Special Funds	1,776,985	55.7%	2,083,878	58.3%	2,083,671	58.3%
02917 Msp Canteen Revolving Acct	1,776,985	55.7%	2,083,878	58.3%	2,083,671	58.3%
06000 Total Proprietary Funds	521,136	16.3%	591,437	16.6%	592,358	16.6%
06545 Prison Indust. Training Prog	521,136	16.3%	591,437	16.6%	592,358	16.6%
Grand Total	\$ 3,191,042	100.0%	\$ 3,573,500	100.0%	\$ 3,573,539	100.0%

This program is funded by a combination of general fund, state special revenue, and proprietary funds. General fund supports the industries program and personal services costs for the inmate canteen. State special revenue from the inmate canteen fund supports the purchase of merchandise that is distributed and sold to inmates through the canteen. Proprietary funds support a portion of the industries program and the manufacture of license plates. The license plate manufacturing function was moved to a proprietary fund beginning in FY 2011 as provided by the 2009 Legislature.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	892,921	892,921	1,785,842	99.45%	3,191,042	3,191,042	6,382,084	89.30%
Statewide PL Adjustments	(70,955)	(71,536)	(142,491)	(7.94%)	(118,261)	(118,128)	(236,389)	(3.31%)
Other PL Adjustments	91,906	91,812	183,718	10.23%	516,406	516,312	1,032,718	14.45%
New Proposals	(15,687)	(15,687)	(31,374)	(1.75%)	(15,687)	(15,687)	(31,374)	(0.44%)
Total Budget	\$898,185	\$897,510	\$1,795,695		\$3,573,500	\$3,573,539	\$7,147,039	

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
Fiscal 2012					Fiscal 2013					
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services				(82,914)					(83,334)	
Vacancy Savings				(35,264)					(35,249)	
Inflation/Deflation				(83)					455	
Total Statewide Present Law Adjustments	(\$70,955)	(\$17,607)	\$0	(\$118,261)*		(\$71,536)	(\$17,814)	\$0	(\$118,128)*	
DP 401 - HB2 Overtime and Inmate Payroll	0.00	47,400	24,500	0	71,900	0.00	47,400	24,500	0	71,900
DP 402 - HB2 Additional Inmate Canteen FTE	1.00	44,506	0	0	44,506	1.00	44,412	0	0	44,412
DP 405 - HB2 Increased Spending Authority for Canteen	0.00	0	300,000	0	300,000	0.00	0	300,000	0	300,000
DP 409 - HB2 Increase Spending Authority for MVM	0.00	0	0	0	100,000*	0.00	0	0	0	100,000*
Total Other Present Law Adjustments	1.00	\$91,906	\$324,500	\$0	\$516,406*	1.00	\$91,812	\$324,500	\$0	\$516,312*
Grand Total All Present Law Adjustments	1.00	\$20,951	\$306,893	\$0	\$398,145*	1.00	\$20,276	\$306,686	\$0	\$398,184*

* "Total Funds" amount includes funding from sources other than General Fund, State Special, or Federal Special (i.e. Proprietary).

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

- o **Pay Plan Exceptions** - The agency pay plan rules do not extend the opportunity for “exceptions” per se. There is some latitude which will likely be stretched by the challenges of the coming biennium.
- o **Program Specific Obstacles** - This program competes with local school districts for teachers and will suffer by comparison as most districts did not have a pay freeze during the current biennium. Food factory workers are difficult to recruit and retain due to increased pay of other union positions and the difficulty in maintaining a pay rate equivalent to correctional officer staff. MCE is primarily a proprietary operation that competes more directly with the public sector for industries staff. The pay plan rules that strive for internal agency equity work to the disadvantage of MCE in recruitment and retention of skilled staff because flexibility to compete with the private market for specialized positions is restricted. Further, operations are more immediately and directly impacted by the weak economy. In the current biennium, MCE laid off staff. Recruitment for these positions may be necessary if business returns to normal.
- o **Vacancy** - MCE is based on the Montana State Prison compound and faces the same work environment and geographic locale challenges as the prison. MCE has utilized pay adjustments where possible (outside the bargaining unit) and provides onsite rental housing for a limited number of managers. Vehicles are accorded some staff (subject to agency and state rules strictly limiting their use). Successful operations depend upon experienced staff and total attention to customer service. Vacancies inevitably impact the ability to deliver the kind of customer service that is especially crucial in times of fiscal austerity when more businesses are competing for fewer customers.
- o **Legislatively Applied Vacancy Savings** - Only 17.5% of MCE budget is general fund. The program was able to keep positions open and transfer the operating budget to fund the vacancy savings requirements.
- o **Pay/Position Changes** - MCE was subject to union contract considerations for union positions. In addition, the program implemented a unique “competency pay” component for its food factory staff (food processor technicians) who are among the lowest paid in the agency. Staff was rewarded for successful completion of some specialized training and subsequent certification in food preparation. MCE applied for and received several other pay adjustments through the agency’s pay adjustment request process.
- o **Retirements** - It’s difficult to project who will retire based on the variety of age and service criteria and potential service purchase options. The department estimates there are 24 employees eligible for retirement. The program

has a projected liability of \$253,139. The program must plan for at least one key ranch manager retirement.

DP 401 - HB2 Overtime and Inmate Payroll - This decision package requests funding for overtime and inmate payroll, which are zero based for budgeting purposes.

DP 402 - HB2 Additional Inmate Canteen FTE - This decision package requests an additional 1.00 FTE for the inmate canteen which now serves the entire population of Montana inmates, including inmates in both state owned and contracted facilities.

DP 405 - HB2 Increased Spending Authority for Canteen - This decision package requests additional funding for the canteen and Motor Vehicle Maintenance (MVM) programs. This would allow for the increased purchases of merchandise and supplies. The cost of these items is passed through to those purchasing goods and services from these two operations.

DP 409 - HB2 Increase Spending Authority for MVM - This decision package requests to increase authority internal service fund for the Motor Vehicle Maintenance (MVM) program. MVM is looking for additional customers. If additional customers are found, supplies will need to be purchased to accommodate. This request is for \$100,000 proprietary funding each year of the biennium.

New Proposals

The "New Proposals" table summarizes all new proposals requested by the Governor. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals										
Program	FTE	Fiscal 2012				Fiscal 2013				Total Funds
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	
DP 403 - Voc Ed Video Conferencing Maintenance Costs	04	0.00	7,500	0	7,500	0.00	7,500	0	0	7,500
DP 55400 - MCE FTE Reduction	04	(0.50)	(23,187)	0	(23,187)	(0.50)	(23,187)	0	0	(23,187)
Total	(0.50)	(\$15,687)	\$0	\$0	(\$15,687)	(0.50)	(\$15,687)	\$0	\$0	(\$15,687)

DP 403 - Voc Ed Video Conferencing Maintenance Costs - This decision package requests funding to support equipment maintenance fees for two video conferencing systems that were purchased with grant funds. The equipment would assist Montana State Prison and Montana Correctional Enterprises in the provision of training at reduced costs.

DP 55400 - MCE FTE Reduction - The executive recommends a 4% reduction of personal services funded with general fund.

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Specific Positions Not Identified

The agency was not able to identify the specific positions or types of positions that would be included in this reduction. Therefore, the impact of the reduction on agency operations cannot be determined.

Only two functions within this division, vocational education and inmate canteen, are supported by the general fund. Reduction in vocational education would reduce training and job assignment opportunities for inmates. Reduction in the inmate canteen staff would increase the workload for existing staff and would partially offset the executive request to add 1.00 FTE for this function.

Proprietary Rates

Proprietary Program Description

Montana Correctional Enterprises (MCE) includes several functions funded with internal service funds or proprietary funds. These programs are described separately along with a discussion of the program expenses, revenues, and rates being requested to finance the program. The legislature must approve the rates to be charged by proprietary funds. Internal service and enterprise funds included in MCE are:

- The Industry Program includes furniture, upholstery, print, sign, and laundry operations at the Montana State Prison facility
- The MCE Ranch and Dairy operation includes range cattle, crops, feedlot, land management, dairy milking parlor, dairy processing, heifer reproduction, lumber processing, and the Montana Food Bank Cannery, which are all located at the Montana State Prison facility
- The MCE Vocational Education program operates a motor vehicle maintenance shop and Toyota cutaway operation

At the current time there are not any programs operating at the Montana Women's Prison or regional and private facilities.

Prison Ranch – Fund 06033

Proprietary Proposed Budget

The 2013 biennium report on enterprise funds for the Prison Ranch shows the financial information for the fund from FY 2010 through FY 2013. The report is provided as submitted by the executive but the LFD has edited and reconfigured the figure for clarity.

2013 Biennium Report on Internal Service and Enterprise Funds 2013				
Fund 6033	Fund Name Prison Ranch	Agency # 64010	Program Name Mont Correctional Enterprises	
			Actual FY10	Budgeted FY11
Operating Revenues:				
Fee revenue				
Sales of Products	3,915,822	4,552,567	4,552,567	4,552,567
MFBN Cannery Service Revenues				
Net Fee Revenue	3,915,822	4,552,567	4,552,567	4,552,567
Investment Earnings	-	-	-	-
Securities Lending Income	-	-	-	-
Premiums	-	-	-	-
Other Operating Revenues				
Total Operating Revenue	3,915,822	4,552,567	4,552,567	4,552,567
Operating Expenses:				
Personal Services	1,437,799	1,548,592	1,507,807	1,507,164
Other Operating Expenses	2,544,843	3,055,175	2,711,207	2,721,548
Total Operating Expenses	3,982,642	4,603,767	4,219,014	4,228,712
Operating Income (Loss)	(66,820)	(51,200)	333,553	323,855
Nonoperating Revenues (Expenses):				
Gain (Loss) Sale of Fixed Assets	(77,989)	-	-	-
Federal Indirect Cost Recoveries	-	-	-	-
Other Nonoperating Revenues (Expenses)	-	-	-	-
Net Nonoperating Revenues (Expenses)	(77,989)	-	-	-
Income (Loss) Before Operating Transfers	(144,809)	(51,200)	333,553	323,855
Contributed Capital	-	-	-	-
Operating Transfers In (Note 13)	-	-	-	-
Operating Transfers Out (Note 13)	-	-	-	-
Change in net assets	(144,809)	(51,200)	333,553	323,855
Total Net Assets - July 1 - As Restated	9,668,481	9,523,672	9,472,472	9,806,025
Prior Period Adjustments	-	-	-	-
Cumulative effect of account change	-	-	-	-
Total Net Assets - July 1 - As Restated	9,668,481	9,523,672	9,472,472	9,806,025
Net Assets - June 30	9,523,672	9,472,472	9,806,025	10,129,880
60 days of expenses (Total Operating Expenses divided by 6)	663,774	767,295	703,169	704,785

Proprietary Program Description

The proprietary program consists of the ranch operation located near the Montana State Prison in Deer Lodge and includes cattle, crops, feedlot, land management, dairy milking parlor, dairy processing, heifer reproduction, and lumber processing activities.

Proprietary Program Narrative

Expenses

The largest operating expenses for the program include items such as feed, grain, gasoline, diesel fuel, and veterinary supplies. The cost of these supplies varies with general economic conditions.

Revenues

Revenues for this program are derived primarily from the sale of raw milk and livestock. Additionally, a small amount of revenue is generated through logging. Revenues vary depending upon general economic conditions that impact commodity prices.

Funding Sources

Prison ranch products are sold in the private sector.

Proprietary Present Law Adjustments

Present law adjustments for this program include \$590,000 for the biennium to fund overtime, holidays worked, and inmate pay, which are zero based for budgeting purposes.

Proprietary New Proposals

New proposals for this program include \$300,000 and \$150,000 for the biennium for increased operating costs and equipment purchases, respectively. The budget request does not identify the equipment that may be purchased.

Proprietary Rates

This program is funded with an enterprise type proprietary fund. As such, the legislature does not appropriate funds or approve rates for the program. Instead, the legislature reviews the report for the enterprise fund and identifies any concerns with the financial position of the fund.

MSP Institutional Industries – Fund 06034*Proprietary Proposed Budget*

The 2013 biennium report on enterprise funds for MSP Institutional Industries shows the financial information for the fund from FY 2010 through FY 2013. The report is provided as submitted by the executive but the LFD has edited and reconfigured the figure for clarity.

2013 Biennium Report on Internal Service and Enterprise Funds 2013				
Fund 6034	Fund Name MSP Institutional Industries	Agency # 64010	Program Name Mont Correctional Enterprises	
			Actual FY10	Budgeted FY11
Operating Revenues:				
Fee revenue				
Sale of Industries Products	2,387,949	2,670,000	2,670,000	2,670,000
Revenue from Fee B	-	-	-	-
Revenue from Fee C	-	-	-	-
Revenue from Fee D	-	-	-	-
Revenue from Fee E	-	-	-	-
Revenue from Fee F	-	-	-	-
Net Fee Revenue	2,387,949	2,670,000	2,670,000	2,670,000
Investment Earnings	-	-	-	-
Securities Lending Income	-	-	-	-
Premiums	-	-	-	-
Other Operating Revenues	-	-	-	-
Total Operating Revenue	2,387,949	2,670,000	2,670,000	2,670,000
Operating Expenses:				
Personal Services	1,192,206	1,240,058	1,288,659	1,287,068
Other Operating Expenses	1,209,710	1,499,730	1,376,079	1,377,272
Total Operating Expenses	2,401,916	2,739,788	2,664,738	2,664,340
Operating Income (Loss)	(13,967)	(69,788)	5,262	5,660
Nonoperating Revenues (Expenses):				
Gain (Loss) Sale of Fixed Assets	-	-	-	-
Federal Indirect Cost Recoveries	-	-	-	-
Other Nonoperating Revenues (Expenses)	-	-	-	-
Net Nonoperating Revenues (Expenses)	-	-	-	-
Income (Loss) Before Operating Transfers	(13,967)	(69,788)	5,262	5,660
Contributed Capital	-	-	-	-
Operating Transfers In (Note 13)	-	-	-	-
Operating Transfers Out (Note 13)	-	-	-	-
Change in net assets	(13,967)	(69,788)	5,262	5,660
Total Net Assets- July 1 - As Restated	1,852,044	1,838,077	1,768,289	1,773,551
Prior Period Adjustments	-	-	-	-
Cumulative effect of account change	-	-	-	-
Total Net Assets - July 1 - As Restated	1,852,044	1,838,077	1,768,289	1,773,551
Net Assets- June 30	1,838,077	1,768,289	1,773,551	1,779,211
60 days of expenses (Total Operating Expenses divided by 6)	400,319	456,631	444,123	444,057
Requested Rates for Enterprise Funds				
Fee/Rate Information				
		Actual FY10	Budgeted FY11	Budgeted FY12
			Budgeted FY13	
Cost Per Pound for Laundry Services				
Base Laundry Price for Customer	0.43	0.43	0.48	0.48
Delivery Charge per Pound				
Montana Developmental Center	0.05	0.05	0.05	0.05
Riverside Youth Correctional Facility	0.05	0.05	0.05	0.05
Montana Law Enforcement Academy	0.15	0.15	0.15	0.15
Montana Chemical Dependency Corp.	0.04	0.04	0.04	0.04
START Program	0.01	0.01	0.01	0.01
Montana State Hospital	0.01	0.01	0.01	0.01
University of Montana	0.20	0.20	0.20	0.20

Proprietary Program Description

This proprietary program consists of the furniture, upholstery, print, sign, and laundry operations at the Montana State Prison facility.

*Proprietary Program Narrative*Expenses

The expenses are split almost equally between personal services (21.00 FTE) and operating expenses. The largest categories of operating expenses for the program include items related to furniture manufacturing and shop supplies. The program implemented a reduction in force to reduce staff but the 2013 biennium budget includes the cost of these two vacant positions. Additionally, the expenditures for the program include \$150,000 per year to be expended for equipment purchases if needed.

Revenues

Revenues are derived primarily from the sale merchandise (furniture and signs) and charges for laundry services. In FY 2010 about \$500,000 of revenue was derived from furniture sales to state agencies and a similar amount was derived from the provision of laundry services to Montana State Prison (MSP) and Montana State Hospital (MSH). Because state agencies funded with general fund (MSP and MSH) are among the largest customers for this program increases in rates are likely to increase general fund expenditures made by other agencies.

Funding Sources

Because a large portion of revenues are the result of business done with state agencies, a portion of the revenue from this program comes indirectly from the general fund.

Proprietary Present Law Adjustments

Present law adjustments include \$420,000 for the biennium to fund overtime, holidays worked, and inmate pay, which are zero based for budgeting purposes.

Proprietary New Proposals

New proposals include \$200,000 and \$100,000 for the biennium for increased operating costs and equipment purchases, respectively. The budget request does not identify the specific costs or equipment that may be purchased.

Proprietary Rates

This program is funded with an enterprise type proprietary fund. As such, the legislature does not appropriate funds or approve rates for the program. Instead, the legislature reviews the report for the enterprise fund and identifies any concerns with the financial position of the fund.

**LFD
ISSUE**

Funding Request of Other Programs

The executive budget for two units (MSP and Adult Community Corrections) within the agency include requests for increased general fund of a total \$173,099 per year due to proposed rates increases for laundry and cook chill costs. These increases are due to a combination of increased usage and increased costs.

While the legislature does not approve the rates charged by this fund, it may wish to:

- Provide comments to the agency about the proposed rate increase and its impact on costs to other state agencies
- Request that the proposed rates be recalculated removing the costs of vacant FTE and funding for equipment purchase (\$150,000 per year)

Vocational Education – Fund 06545*Proprietary Proposed Budget*

The 2013 biennium report on internal service funds for MSP Vocational Education shows the financial information for the fund from FY 2010 through FY 2013. The report is provided as submitted by the executive but the LFD has edited and reconfigured the figure for clarity.

2013 Biennium Report on Internal Service and Enterprise Funds						
Fund 6545	Fund Name Vocational Education	Agency # 64010	Program Name Mont Correctional Enterprises			
			Actual FY10	Budgeted FY11	Budgeted FY12	Budgeted FY13
Operating Revenues:						
Fee revenue						
Revenue from Motor Vehicle Maintenance Service		560,212	597,000	597,000	597,000	597,000
Net Fee Revenue		560,212	597,000	597,000	597,000	597,000
Investment Earnings		-	-	-	-	-
Securities Lending Income		-	-	-	-	-
Premiums		-	-	-	-	-
Other Operating Revenues		-	-	-	-	-
Total Operating Revenue		560,212	597,000	597,000	597,000	597,000
Operating Expenses:						
Personal Services		227,615	263,652	200,963	201,871	
Other Operating Expenses		312,331	319,665	404,852	404,618	
Total Operating Expenses		539,946	583,317	605,815	606,489	
Operating Income (Loss)		20,266	13,683	(8,815)	(9,489)	
Nonoperating Revenues (Expenses):						
Gain (Loss) Sale of Fixed Assets		-	-	-	-	-
Federal Indirect Cost Recoveries		-	-	-	-	-
Other Nonoperating Revenues (Expenses)		-	-	-	-	-
Net Nonoperating Revenues (Expenses)		-	-	-	-	-
Income (Loss) Before Operating Transfers		20,266	13,683	(8,815)	(9,489)	
Contributed Capital		-	-	-	-	-
Operating Transfers In (Note 13)		-	-	-	-	-
Operating Transfers Out (Note 13)		-	-	-	-	-
Change in net assets		20,266	13,683	(8,815)	(9,489)	
Total Net Assets- July 1 - As Restated		17,667	37,933	51,616	42,801	
Prior Period Adjustments		-	-	-	-	-
Cumulative effect of account change		-	-	-	-	-
Total Net Assets - July 1 - As Restated		17,667	37,933	51,616	42,801	
Net Assets- June 30		37,933	51,616	42,801	33,312	
60 days of expenses (Total Operating Expenses divided by 6)		89,991	97,220	100,969	101,082	
Requested Rates for Internal Service Funds						
Fee/Rate Information for Legislative Action						
			Actual FY10	Budgeted FY11	Budgeted FY12	Budgeted FY13
Fee Group A -						
Rate 1 per hour	Labor Charge for Motor Vehicle Maint	\$ 26.50	\$ 26.50	\$ 26.50	\$ 26.50	
Supply fee as a percentage of actual cost		3%	3%	5%	5%	
Rate 2 (per unit)						
Rate 3	Parts are sold at actual cost					→

Proprietary Program Description

This proprietary program consists of the motor vehicle maintenance shop and Toyota cutaway operation.

*Proprietary Program Narrative*Expenses

The expenses are split between personal services (4.00 FTE) and operating expenses, with about one third of the budget supporting personal services and the remaining two thirds supporting operating costs. The largest category of operating expense for the program is merchandise.

Revenues

Revenues are derived primarily from motor vehicle maintenance completed for MSP and the prison ranch.

Funding Sources

Because a largest portion of the revenues are the result of business done with MSP and the prison ranch, the primary funding sources supporting payment for services are the ranch proprietary fund and the general fund, which supports MSP.

Proprietary Present Law Adjustments

Present law adjustments include \$200,000 for the biennium to support the purchase of merchandise. The program is working to identify additional sources of revenue and if located will experience an increase in the purchase of merchandise.

Proprietary Rates

The program proposes maintenance of the per hour labor charge for vehicle maintenance at the 2011 biennium level of \$26.50 per hour and parts at actual costs while increasing the supply fee from 3% of costs to 5% of costs.

The rates approved by the legislature are the maximum the program may charge during the biennium, they are not the rates the program must charge.

MCE License Plate – Fund 06572*Proprietary Proposed Budget*

The 2013 biennium report on internal service funds for MCE License Plate shows the financial information for the fund from FY 2010 through FY 2013. The report is provided as submitted by the executive but the LFD has edited and reconfigured the figure for clarity.

2013 Biennium Report on Internal Service and Enterprise Funds 2013				
Fund	Fund Name	Agency #	Program Name	
6572	MCE License Plate	64010	Mont Correctional Enterprises	
			Actual FY10	Budgeted FY11
			Budgeted FY12	Budgeted FY13
Operating Revenues:				
Fee revenue				
Sale of License Plate Products		1,106,138	1,100,000	1,341,500
Net Fee Revenue		1,106,138	1,100,000	1,341,500
Investment Earnings		-	-	-
Securities Lending Income		-	-	-
Premiums		-	-	-
Other Operating Revenues		-	-	-
Total Operating Revenue		1,106,138	1,100,000	1,341,500
Operating Expenses:				
Personal Services		-	173,045	162,818
Other Operating Expenses		-	2,354,143	1,183,050
Total Operating Expenses		-	2,527,188	1,345,868
Operating Income (Loss)		1,106,138	(1,427,188)	(4,368)
Nonoperating Revenues (Expenses):				
Gain (Loss) Sale of Fixed Assets		-	-	-
Federal Indirect Cost Recoveries		-	-	-
Other Nonoperating Revenues (Expenses)		-	-	-
Net Nonoperating Revenues (Expenses)		-	-	-
Income (Loss) Before Operating Transfers		1,106,138	(1,427,188)	(4,368)
Contributed Capital			-	-
Operating Transfers In (Note 13)			-	-
Operating Transfers Out (Note 13)			-	-
Change in net assets		1,106,138	(1,427,188)	(4,368)
Total Net Assets- July 1 - As Restated		-	1,106,138	(321,050)
Prior Period Adjustments		-	-	(325,418)
Cumulative effect of account change		-	-	-
Total Net Assets - July 1 - As Restated		-	1,106,138	(321,050)
Net Assets- June 30		1,106,138	(321,050)	(325,418)
60 days of expenses		-	421,198	224,311
(Total Operating Expenses divided by 6)				224,548
Requested Rates for Enterprise Funds				
Fee/Rate Information				
			Actual FY10	Budgeted FY11
			Budgeted FY12	Budgeted FY13
Cost Per Set of Plates for MCE License Plates				
cost per plate			6.20	6.20
			6.20	6.20

Proprietary Program Description

This proprietary program consists of license plate manufacturing. This function was moved to a proprietary fund from the general fund beginning in FY 2011 in accordance with actions taken by the 2009 Legislature.

*Proprietary Program Narrative*Expenses

The expenses for this program include personal services (2.50 FTE) and operating expenses, with the bulk of the funding supporting operating costs.

Revenues

Revenues are derived from the sale of license plates to the Department of Justice. The Department of Justice pays for the license plates with fee revenue collected from license plate sales.

Funding Sources

Revenues supporting license plate manufacturing come from members of the public who purchase license plates.

Proprietary Present Law Adjustments

The entire budget for this fund is established in a present law adjustment because this function was not moved to a proprietary fund until the second year of the 2011 biennium.

Proprietary Rates

The program proposes maintaining the rate charged to the Department of Justice at the 2011 biennium level of \$6.20 per set of plates.

The rates approved by the legislature are the maximum the program may charge during the biennium, they are not the rates the program must charge.

MCE Food Factory – Fund 06573*Proprietary Proposed Budget*

The 2013 biennium report on internal service funds for MCE Food Factory shows the financial information for the fund from FY 2010 through FY 2013. The report is provided as submitted by the executive but the LFD has edited and reconfigured the figure for clarity.

2013 Biennium Report on Internal Service and Enterprise Funds						
Fund	Fund Name	Agency #	Program Name			
6573	MCE Food Factory	64010	Secure Custody Facilities			
			Actual FY10	Budgeted FY11	Budgeted FY12	Budgeted FY13
Operating Revenues:						
Fee revenue						
Food Product Sales		3,544,935	3,900,000	3,900,000	3,900,000	
Net Fee Revenue		3,544,935	3,900,000	3,900,000	3,900,000	
Investment Earnings		-	-	-	-	
Securities Lending Income		-	-	-	-	
Premiums		-	-	-	-	
Other Operating Revenues		-	-	-	-	
Total Operating Revenue		3,544,935	3,900,000	3,900,000	3,900,000	
Operating Expenses:						
Personal Services		987,849	995,774	958,371	959,507	
Other Operating Expenses		2,831,739	2,989,008	3,052,117	3,052,967	
Total Operating Expenses		3,819,588	3,984,782	4,010,488	4,012,474	
Operating Income (Loss)		(274,653)	(84,782)	(110,488)	(112,474)	
Nonoperating Revenues (Expenses):						
Gain (Loss) Sale of Fixed Assets		-	-	-	-	
Federal Indirect Cost Recoveries		-	-	-	-	
Other Nonoperating Revenues (Expenses)		-	-	-	-	
Net Nonoperating Revenues (Expenses)		-	-	-	-	
Income (Loss) Before Operating Transfers		(274,653)	(84,782)	(110,488)	(112,474)	
Contributed Capital		-	-	-	-	
Operating Transfers In (Note 13)		-	-	-	-	
Operating Transfers Out (Note 13)		-	-	-	-	
Change in net assets		(274,653)	(84,782)	(110,488)	(112,474)	
Total Net Assets - July 1 - As Restated		3,133,060	2,858,407	2,773,625	2,663,137	
Prior Period Adjustments		-	-	-	-	
Cumulative effect of account change		-	-	-	-	
Total Net Assets - July 1 - As Restated		3,133,060	2,858,407	2,773,625	2,663,137	
Net Assets - June 30		2,858,407	2,773,625	2,663,137	2,550,663	
60 days of expenses						
(Total Operating Expenses divided by 6)		636,598	664,130	668,415	668,746	
Requested Rates for Internal Service Funds						
Fee/Rate Information for Legislative Action						
		Actual FY10	Budgeted FY11	Budgeted FY12	Budgeted FY13	
Tray Meal Prices to all customers						
Base Tray-Hot/Cold	\$ 1.69	\$ 1.69	\$ 1.73	\$ 1.73		
Base Tray-Hot			\$ 0.87	\$ 0.87		
Detention Center Trays			\$ 2.45	\$ 2.45		
Accessory Package			\$ 0.10	\$ 0.10		
Delivery Charge Per Trayed Meal						
Delivery charge - per mile	\$ 0.50	\$ 0.50	\$ 0.50	\$ 0.50		
Delivery charge - per hour	\$ 35.00	\$ 35.00	\$ 35.00	\$ 35.00		
Bulk Food is sold at cost, with a spoilage percentage added on and an overhead charge to cover operating expenses and delivery. Overhead charge is based on historical costs and volume of sales to the customer, as a percentage of overall						
Spoilage percentage to all customers						
(Overhead Chrg)	Montana State Hospital				11%	11%
	MSH - supplies only	12%	12%			
	MSH - all overhead except supplies	6%	6%			
	Montana State Prison				77%	77%
	MSP - supplies only	77%	77%			
	MSP - all overhead except supplies	41%	41%			
	Treasure State Correctional Training				12%	12%
	TSCTC - supplies only	11%	11%			
	TSCTS - all overhead except supplies	6%	6%			

Proprietary Program Description

This proprietary program consists of food processing and creation of trayed meals and products that are sold to other facilities.

*Proprietary Program Narrative*Expenses

The expenses include personal services (21.00 FTE) and operating expenses, with the bulk of the funding supporting operating costs. The largest category of operating cost is raw materials, which includes the various grocery type items needed to prepare meals. The projected expenses for the 2013 biennium include \$500,000 per year to be expended for equipment purchases if necessary. Additionally, the program is working on a proposal to reduce civilian staff by 4.00 FTE, whose responsibilities include dishing up trays, and utilize inmate workers instead. If the proposal moves forward the program anticipates that the change would be implemented through staff attrition rather than a reduction in force or similar action.

Revenues

Revenues are derived from the sale of meals to facilities. The largest customer is MSP.

Funding Sources

Revenues supporting MSP, the food factory's largest customer, come from the general fund.

Proprietary Present Law Adjustments

Present law adjustments for the biennium include \$92,000 for inmate pay, which is zero based for budgeting purposes, \$700,000 for raw materials, and \$300,000 for equipment. The type of materials, anticipated inflationary rate, and equipment to be purchased have not been identified.

Proprietary Rates

The program proposes increasing the base rate per trayed hot/cold meal from \$1.69 to \$1.73 per meal and establishing rates for hot trayed meals, detention center trays, accessory packages, and overhead charges. Please refer to the table on the previous page for information about the various rates proposed for the food factory.

**LFD
ISSUE**Funding Request of Other Programs

The executive budget for two units (MSP and Adult Community Corrections) within the agency include requests for increased combined general fund of \$173,099 per year due to proposed rates increases for laundry and cook chill costs. These increases are due to a combination of increased usage and increased costs.

Since the program has not identified specific equipment to be purchased the legislature may wish to request that the proposed rates be recalculated removing the proposed funding for equipment. Additionally, removal of this cost from the expenses included in the table above would impact the fund balance.

The rates approved by the legislature are the maximum the program may charge during the biennium, they are not the rates the program must charge.

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Budget Item	Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
FTE	208.85	208.85	205.85	205.85	208.85	205.85	(3.00)	(1.44%)
Personal Services	10,570,499	11,510,017	11,101,892	11,108,345	22,080,516	22,210,237	129,721	0.59%
Operating Expenses	2,500,280	2,772,814	2,631,433	2,436,083	5,273,094	5,067,516	(205,578)	(3.90%)
Benefits & Claims	3,343,082	4,055,855	3,343,082	3,343,082	7,398,937	6,686,164	(712,773)	(9.63%)
Transfers	2,848,231	2,124,917	2,848,231	2,848,231	4,973,148	5,696,462	723,314	14.54%
Total Costs	\$19,262,092	\$20,463,603	\$19,924,638	\$19,735,741	\$39,725,695	\$39,660,379	(\$65,316)	(0.16%)
General Fund	18,405,196	19,610,283	19,068,587	18,878,904	38,015,479	37,947,491	(67,988)	(0.18%)
State Special	845,197	846,365	844,352	845,138	1,691,562	1,689,490	(2,072)	(0.12%)
Federal Special	11,699	6,955	11,699	11,699	18,654	23,398	4,744	25.43%
Total Funds	\$19,262,092	\$20,463,603	\$19,924,638	\$19,735,741	\$39,725,695	\$39,660,379	(\$65,316)	(0.16%)

Program Description

The Youth Services Division is responsible for all state operated youth programs including Pine Hills Youth Correctional Facility for males located in Miles City, Riverside Youth Correctional Facility for females in Boulder, Youth Community Corrections including Juvenile Parole, interstate compact services for probation and parole, reentry services, transition centers, detention licensing, and transportation. Additional responsibilities include research, training, and administrative support services.

Program Highlights

Youth Services Division	
Major Budget Highlights	
<ul style="list-style-type: none"> ◆ Funding for this division decreases \$65,316 (0.2%) between the two biennia primarily due to a reduction in general fund support including: <ul style="list-style-type: none"> • A 4% reduction in personal services (3.00 FTE and \$374,000 for the biennium) • Annualization of the 2% across the board reduction made by the 2009 Legislature 	
Major LFD Issues	
<ul style="list-style-type: none"> ◆ The 5% plan reduction in funding for the Juvenile Delinquency Intervention Program impacts the Judicial Branch 	

Program Narrative

Youth Services Division is responsible for management of juvenile corrections programs, including youth correctional facilities, transitional centers, juvenile parole, and community services. Funding for the juvenile placements and the Juvenile Delinquency Intervention Program (JDIP) is appropriated and managed by the division. Although Juvenile Parole Officers are included in this division, Juvenile Probation Officers are part of the District Court Operations Program in the Judicial Branch. The division provides services primarily through state employees located at the correctional facilities and in communities.

Funding for the division remains constant between the 2011 and 2013 biennium. Increases in present law adjustments are partially offset by a decrease due to a 4% reduction in personal services (3.00 FTE). The executive budget requests funding for items such as overtime, which is zero based for budgeting purposes, and one time only funding for security cameras and equipment at Riverside Youth Correctional Facility for females.

5% Reduction Plan

Statute requires that agencies submit plans to reduce general fund and certain state special revenue funds by 5%. The following summarizes the plan submitted for this program.

The 5% reduction plan for this division includes general fund reductions totaling \$733,558 and a state special revenue reduction totaling \$42,260. Of these reductions \$141,728 general fund supporting 3.00 FTE is included in the executive budget. The 3.00 FTE reductions include 1.00 FTE for a social worker at Pine Hills Youth Correctional Facility, 1.00 FTE for a correctional officer at Riverside Youth Correctional Facility, and 1.00 FTE for a correctional officer at the Youth Transition Center.

5% Reduction Plan by Division Youth Services Division			
Item	FTE	Gen Fund	State Spec Revenue
4% FTE Reduction			
Pine Hills Social Worker	1.00	47,243	
Riverside Correctional Officer	1.00	47,243	
Youth Trans Ctr Correctional Officer	1.00	47,243	
Contract Reductions		60,700	
Leased Vehicles		21,279	
Operating Costs		75,429	
Placement Costs		48,492	
Juvenile Delinquency Intervention Program		385,930	
Alcohol Tax Reduction			\$1,276
Parental Contributions			20,305
Pine Hills Canteen			173
Pine Hills Interest and Income			20,506
	3.00	\$733,558	\$42,260

In addition to operating costs reductions (such as contracts, travel, and leased vehicles) the 5% plan proposes a reduction of \$48,492 in juvenile placement costs and \$385,930 in the Juvenile Delinquency Intervention Program. Juvenile placement funds that are unexpended at the end of the fiscal year are transferred to the Judicial Branch and deposited in the Juvenile Delinquency Intervention Program state special revenue account. Funds in this account are statutorily appropriated to the Judicial Branch for expenditure during the two years following the year of transfer.

Risks and impacts that may be created by these reductions include:

- o Increased caseloads and workloads for staff resulting in increased overtime costs
- o Decreased vehicles leases may increase the logistical difficulties for transporting youth and result in the Youth Transition Center transporting male and female offenders together
- o Reductions in placement costs and Youth Delinquency Intervention Program funding may result in fewer community options and less intervention and prevention programming for youth
- o With fewer community and intervention options there is risk that more youth will be placed at state operated correctional facilities

LFD ISSUE

Judicial Branch Impact

The agency's 5% plan proposes reducing funding for juvenile placements by \$48,492 and JDIP by \$385,930. The reduction to JDIP funds impacts the Judicial Branch funding available via a statutory appropriation for youth prevention and intervention programs. Please refer to the statutory appropriation section of the narrative of the Judicial Branch for more information on this account.

Juvenile Placement and Juvenile Delinquency Intervention Program (JDIP) Funding

The legislature provided about \$6 million per year for juvenile placements for the 2011 biennium. Of this amount, 11% is allocated to the department for juvenile parole placements. 2011 biennium funding for juvenile placements was reduced by \$120,000 to implement the 2% across the board reduction approved by the legislature and by \$300,000 for FY 2011 as part of the spending reductions ordered by the Governor in accordance with 17-7-140, MCA. Because this reduction occurs in the second year of the biennium it is not ongoing.

Overtime and Inmate Pay

All of the facilities included in this program request funding for overtime and inmate pay which are zero based for budgeting purposes. The figure below illustrates the FY 2010 base expenditures for overtime, holidays worked, and inmate pay for the three youth residential facilities under the supervision of the department. Compared to the FY 2010 base year expenditures, the 2013 biennium budget request is:

- \$12,241 (6%) greater for overtime and holidays worked
- \$801 (2%) less for inmate pay
- \$11,440 (4%) greater for the three items combined

Youth Services Division Summary of Overtime, Holidays Worked, and Inmate Pay						
Item/Facility	FY 2010 Actual			FY 2012 Request	FY 2013 Request	Over (Und) FY 2010
<u>Overtime and Holiday Worked</u>	Overtime	Holiday Wkd	Total			Per Year
Riverside Youth Correction Fac.	\$7,101	\$17,754	\$24,855	\$26,468	\$26,468	\$1,613
Youth Transition Center	17,675	14,627	32,302	34,447	34,447	2,145
Pine Hills Youth Corr Fac.	79,181	85,296	164,477	172,960	172,960	8,483
Total Overtime/Holiday Worked	103,957	117,677	221,634	233,875	233,875	12,241
						0
<u>Inmate Pay</u>	<u>Inmate Pay</u>					
Riverside Youth Correction Fac.	751		751	1,000	1,000	249
Pine Hills Youth Corr Fac.	33,550		33,550	32,500	32,500	(1,050)
Total Inmate Pay	34,301		34,301	33,500	33,500	(801)
Combined	\$138,258	\$117,677	\$255,935	\$267,375	\$267,375	\$11,440

Funding

The following table shows program funding, by source, for the base year and for the 2013 biennium as recommended by the Governor.

Youth Services						
Program Funding	Base FY 2010	% of Base FY 2010	Budget FY 2012	% of Budget FY 2012	Budget FY 2013	% of Budget FY 2013
01000 Total General Fund	\$ 18,405,196	95.6%	\$ 19,068,587	95.7%	\$ 18,878,904	95.7%
01100 General Fund	18,405,196	95.6%	19,068,587	95.7%	18,878,904	95.7%
02000 Total State Special Funds	845,197	4.4%	844,352	4.2%	845,138	4.3%
02034 Earmarked Alcohol Funds	25,523	0.1%	25,523	0.1%	25,523	0.1%
02844 Highway Traffic Safety Funds	-	-	-	-	-	-
02916 Phs -Canteen	3,457	0.0%	3,457	0.0%	3,457	0.0%
02927 Phs Donations/l & I	410,116	2.1%	409,984	2.1%	410,100	2.1%
02970 Juvenile Plcmnt Cost Of Care	406,101	2.1%	405,388	2.0%	406,058	2.1%
03000 Total Federal Special Funds	11,699	0.1%	11,699	0.1%	11,699	0.1%
03530 6901-Foster Care 93.658	11,699	0.1%	11,699	0.1%	11,699	0.1%
Grand Total	\$ 19,262,092	100.0%	\$ 19,924,638	100.0%	\$ 19,735,741	100.0%

This division receives about 96% of its support from the general fund. State special revenue, primarily from parental contributions toward the costs of care and interest and income related to Pine Hills school lands, provides about 4% of the division's funding. The division also receives a small amount of federal funds from the Title IV-E Foster Care and Adoption Program.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category		General Fund				Total Funds			
Budget Item		Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget		18,405,196	18,405,196	36,810,392	97.00%	19,262,092	19,262,092	38,524,184	97.14%
Statewide PL Adjustments		378,391	394,014	772,405	2.04%	377,546	393,955	771,501	1.95%
Other PL Adjustments		267,375	267,375	534,750	1.41%	267,375	267,375	534,750	1.35%
New Proposals		17,625	(187,681)	(170,056)	(0.45%)	17,625	(187,681)	(170,056)	(0.43%)
Total Budget		\$19,068,587	\$18,878,904	\$37,947,491		\$19,924,638	\$19,735,741	\$39,660,379	

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments										
FTE	Fiscal 2012				Fiscal 2013					
	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services				909,953					917,672	
Vacancy Savings				(459,233)					(459,520)	
Inflation/Deflation				(73,174)					(64,197)	
Total Statewide Present Law Adjustments	\$378,391	(\$845)	\$0	\$377,546		\$394,014	(\$59)	\$0	\$393,955	
DP 502 - PHYCF Overtime	0.00	172,960	0	172,960	0.00	172,960	0	0	172,960	
DP 503 - RYCF Overtime	0.00	26,468	0	26,468	0.00	26,468	0	0	26,468	
DP 504 - YTC Overtime	0.00	34,447	0	34,447	0.00	34,447	0	0	34,447	
DP 505 - PHYCF Inmate Pay	0.00	32,500	0	32,500	0.00	32,500	0	0	32,500	
DP 506 - RYCF Inmate Pay	0.00	1,000	0	1,000	0.00	1,000	0	0	1,000	
Total Other Present Law Adjustments	0.00	\$267,375	\$0	\$267,375	0.00	\$267,375	\$0	\$0	\$267,375	
Grand Total All Present Law Adjustments	0.00	\$645,766	(\$845)	\$0	\$644,921	0.00	\$661,389	(\$59)	\$0	\$661,330

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited by LFD staff as necessary for brevity and/or clarity.

- o **Pay Plan Exceptions** - The agency pay plan rules do not extend the opportunity for "exceptions" per se. There is some latitude which will likely be stretched by the challenges of the coming biennium.
- o **Program Specific Obstacles** - Youth correctional facilities employ nursing staff and teachers, which are traditionally difficult to recruit. There are also challenges related to bargained wages for the union staff vs. pay ranges for the entry level supervisors of those positions. Stagnant base rates jeopardize the progress made in recruiting new correctional officers in small labor market areas and potentially lead to a large backlog of vacancies to fill. Increased vacancies drive up overtime costs in 24 hour per day 7 day a week facilities.
- o **Vacancy** - Correctional officer's compensation is below market compared to surrounding states. These jobs are 24 hour per day, 7 day a week shift work, with volatile adolescent offenders and exposure to risks, and are in small communities. This program also employs parole officers who have some occupational challenges related

to hours of work (non-traditional), clientele, and serving in offices in communities across the state including high cost areas. The collective bargaining agreement with correctional officers and other line occupations makes individualized pay adjustments virtually impossible. Turnover impacts facility effectiveness, safety, and costs by the recruitment of inexperienced staff, substantive and expensive training, and increased safety and security hazards while new staff gain experience in the unique correctional setting.

- o **Legislatively Applied Vacancy Savings** - Riverside Youth Correctional Facility, Youth Transition Center, and Pine Hills Youth Correctional Facility direct care positions were subject to 4% vacancy savings rather than the 7% rate that was applied to most state agencies. The division was under budget in personal services.
- o **Pay/Position Changes** – This program is primarily staffed by correctional and parole officers who are unionized workgroups that have continued to receive career ladder adjustments. There have been no other pay adjustments.
- o **Retirements** - It's difficult to project who will retire based on the variety of age and service criteria and potential service purchase options. Based upon information from the retirement systems the division estimates 45 individuals are potentially eligible for retirement. How many will chose to retire is unknown. The projected liability for this program is \$426,883. There is indication that top managers will retire by year's end. The Human Resources Division is taking the lead in career and leadership development programs to provide for the need to recruit replacements.

New Proposals

The "New Proposals" table summarizes all new proposals requested by the Governor. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals										
Fiscal 2012					Fiscal 2013					
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 502 - RYCF Security Cameras Bien/OTO										
05	0.00	204,327	0	0	204,327	0.00	0	0	0	0
DP 55400 - YSD FTE Reductions										
05	(3.00)	(186,702)	0	0	(186,702)	(3.00)	(187,681)	0	0	(187,681)
Total	(3.00)	\$17,625	\$0	\$0	\$17,625	(3.00)	(\$187,681)	\$0	\$0	(\$187,681)

Sub-Program Details

JUVENILE CORRECTIONS ADMIN 01

Sub-Program Proposed Budget

The following table summarizes the total executive budget for the sub-program by year, type of expenditure, and source of funding.

Sub-Program Proposed Budget		Base Budget Fiscal 2010	PL Base Adjustment Fiscal 2012	New Proposals Fiscal 2012	Total Exec. Budget Fiscal 2012	PL Base Adjustment Fiscal 2013	New Proposals Fiscal 2013	Total Exec. Budget Fiscal 2013	Total Exec. Budget Fiscal 12-13
Budget Item									
FTE	5.00	0.00	0.00	5.00	0.00	0.00	5.00	5.00	5.00
Personal Services	301,971	5,146	0	307,117	4,818	0	306,789	613,906	
Operating Expenses	45,598	(1,411)	0	44,187	(1,378)	0	44,220	88,407	
Total Costs	\$347,569	\$3,735	\$0	\$351,304	\$3,440	\$0	\$351,009	\$702,313	
General Fund	347,569	3,735	0	351,304	3,440	0	351,009	702,313	
Total Funds	\$347,569	\$3,735	\$0	\$351,304	\$3,440	\$0	\$351,009	\$702,313	

Sub-Program Description

This subprogram includes the division administrator and statewide management functions for the division.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent Of Budget
Base Budget	347,569	347,569	695,138	98.98%	347,569	347,569	695,138	98.98%
Statewide PL Adjustments	3,735	3,440	7,175	1.02%	3,735	3,440	7,175	1.02%
Other PL Adjustments	0	0	0	0.00%	0	0	0	0.00%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$351,304	\$351,009	\$702,313		\$351,304	\$351,009	\$702,313	

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

	Fiscal 2012				Fiscal 2013					
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services					17,943					17,601
Vacancy Savings					(12,797)					(12,783)
Inflation/Deflation					(1,411)					(1,378)
Total Statewide Present Law Adjustments	\$3,735	\$0	\$0	\$3,735		\$3,440	\$0	\$0	\$3,440	
Grand Total All Present Law Adjustments	0.00	\$3,735	\$0	\$0	\$3,735	0.00	\$3,440	\$0	\$0	\$3,440

Sub-Program Details

JUVENILE CORRECTIONS BUREAU 02

Sub-Program Proposed Budget

The following table summarizes the total executive budget for the sub-program by year, type of expenditure, and source of funding.

Sub-Program Proposed Budget		Base Budget Fiscal 2010	PL Base Adjustment Fiscal 2012	New Proposals Fiscal 2012	Total Exec. Budget Fiscal 2012	PL Base Adjustment Fiscal 2013	New Proposals Fiscal 2013	Total Exec. Budget Fiscal 2013	Total Exec. Budget Fiscal 12-13
Budget Item									
FTE	22.50	0.00	0.00	22.50	0.00	0.00	22.50	22.50	22.50
Personal Services	1,428,671	7,319	0	1,435,990	10,506	0	1,439,177	2,875,167	
Operating Expenses	891,515	(24,457)	0	867,058	(24,107)	0	867,408	1,734,466	
Total Costs	\$2,320,186	(\$17,138)	\$0	\$2,303,048	(\$13,601)	\$0	\$2,306,585	\$4,609,633	
General Fund	2,320,186	(17,138)	0	2,303,048	(13,601)	0	2,306,585	4,609,633	
Total Funds	\$2,320,186	(\$17,138)	\$0	\$2,303,048	(\$13,601)	\$0	\$2,306,585	\$4,609,633	

Sub-Program Description

This subprogram includes juvenile community corrections and functions such as parole officers and the Juvenile Reentry Program.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category		General Fund				Total Funds			
Budget Item		Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent Of Budget
Base Budget		2,320,186	2,320,186	4,640,372	100.67%	2,320,186	2,320,186	4,640,372	100.67%
Statewide PL Adjustments		(17,138)	(13,601)	(30,739)	(0.67%)	(17,138)	(13,601)	(30,739)	(0.67%)
Other PL Adjustments		0	0	0	0.00%	0	0	0	0.00%
New Proposals		0	0	0	0.00%	0	0	0	0.00%
Total Budget		\$2,303,048	\$2,306,585	\$4,609,633		\$2,303,048	\$2,306,585	\$4,609,633	

Present Law Adjustments

The “Present Law Adjustments” table shows the changes to the adjusted base budget proposed by the executive. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
Fiscal 2012					Fiscal 2013				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services				67,153					70,470
Vacancy Savings				(59,834)					(59,964)
Inflation/Deflation				(24,457)					(24,107)
Total Statewide Present Law Adjustments	(\$17,138)	\$0	\$0	(\$17,138)	(\$13,601)	\$0	\$0	(\$13,601)	
Grand Total All Present Law Adjustments	0.00	(\$17,138)	\$0	(\$17,138)	0.00	(\$13,601)	\$0	\$0	(\$13,601)

Sub-Program Details

RIVERSIDE YOUTH CORRECTIONAL FACIL 03

Sub-Program Proposed Budget

The following table summarizes the total executive budget for the sub-program by year, type of expenditure, and source of funding.

Sub-Program Proposed Budget		Base Budget Fiscal 2010	PL Base Adjustment Fiscal 2012	New Proposals Fiscal 2012	Total Exec. Budget Fiscal 2012	PL Base Adjustment Fiscal 2013	New Proposals Fiscal 2013	Total Exec. Budget Fiscal 2013	Total Exec. Budget Fiscal 12-13
Budget Item									
FTE	33.50	0.00	0.00	33.50	0.00	0.00	33.50	33.50	33.50
Personal Services	1,634,748	164,954	0	1,799,702	167,661	0	1,802,409	3,602,111	
Operating Expenses	322,825	(13,117)	204,327	514,035	(11,816)	0	311,009	825,044	
Total Costs	\$1,957,573	\$151,837	\$204,327	\$2,313,737	\$155,845	\$0	\$2,113,418	\$4,427,155	
General Fund	1,935,528	152,190	204,327	2,292,045	155,845	0	2,091,373	4,383,418	
State/Other Special	22,045	(353)	0	21,692	0	0	22,045	43,737	
Total Funds	\$1,957,573	\$151,837	\$204,327	\$2,313,737	\$155,845	\$0	\$2,113,418	\$4,427,155	

Sub-Program Description

This subprogram consists of Riverside Youth Correctional Facility, which is the state operated juvenile correctional institution for females located in Boulder.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category									
Budget Item	General Fund				Total Funds				Percent Of Budget
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13		
Base Budget	1,935,528	1,935,528	3,871,056	88.31%	1,957,573	1,957,573	3,915,146		88.43%
Statewide PL Adjustments	124,722	128,377	253,099	5.77%	124,369	128,377	252,746		5.71%
Other PL Adjustments	27,468	27,468	54,936	1.25%	27,468	27,468	54,936		1.24%
New Proposals	204,327	0	204,327	4.66%	204,327	0	204,327		4.62%
Total Budget	\$2,292,045	\$2,091,373	\$4,383,418		\$2,313,737	\$2,113,418	\$4,427,155		

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments											
	Fiscal 2012				Fiscal 2013						
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds	
Personal Services					211,328					214,151	
Vacancy Savings					(73,842)					(73,958)	
Inflation/Deflation					(13,117)					(11,816)	
Total Statewide Present Law Adjustments		\$124,722	(\$353)	\$0	\$124,369		\$128,377	\$0	\$0	\$128,377	
DP 503 - RYCF Overtime	0.00	26,468	0	0	26,468	0.00	26,468	0	0	26,468	
DP 506 - RYCF Inmate Pay	0.00	1,000	0	0	1,000	0.00	1,000	0	0	1,000	
Total Other Present Law Adjustments		0.00	\$27,468	\$0	\$27,468	0.00	\$27,468	\$0	\$0	\$27,468	
Grand Total All Present Law Adjustments		0.00	\$152,190	(\$353)	\$0	\$151,837	0.00	\$155,845	\$0	\$0	\$155,845

DP 503 - RYCF Overtime - This decision package requests funding for overtime and holidays worked, which are zero based budget items.

**LFD
COMMENT**

Please refer to the program summary for more information.

DP 506 - RYCF Inmate Pay - This decision package requests funding for inmate pay which is a zero based budget items.

**LFD
COMMENT**

Please refer to the program summary for more information.

New Proposals

The “New Proposals” table summarizes all new proposals requested by the Governor. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals										
	Fiscal 2012				Fiscal 2013					
Sub Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 502 - RYCF Security Cameras Bien/OTO	03	0.00	204,327	0	204,327	0.00	0	0	0	0
Total		0.00	\$204,327	\$0	\$204,327	0.00	\$0	\$0	\$0	\$0

DP 502 - RYCF Security Cameras Bien/OTO - This decision package requests one time only funding for a video surveillance system at Riverside Youth Correctional Facility in Boulder. The request is based upon a provider quote that includes 5 - 16 channel DVR's, 42 inside standard resolution dome cameras, 4 extreme CCTV 90 degree cameras, 10 outdoor high resolution fixed cameras, power supplies, cable, installation of all parts, and installation of cable. Equipment costs are estimated at \$147,302 and labor costs at \$57,025. Currently the facility has two surveillance cameras located in the front entrance and south sally port.

Sub-Program Details

TRANSITION CENTERS 04

Sub-Program Proposed Budget

The following table summarizes the total executive budget for the sub-program by year, type of expenditure, and source of funding.

Sub-Program Proposed Budget		Base Budget Fiscal 2010	PL Base Adjustment Fiscal 2012	New Proposals Fiscal 2012	Total Exec. Budget Fiscal 2012	PL Base Adjustment Fiscal 2013	New Proposals Fiscal 2013	Total Exec. Budget Fiscal 2013	Total Exec. Budget Fiscal 12-13
Budget Item									
FTE	17.00	0.00	0.00	17.00	0.00	0.00	17.00	17.00	17.00
Personal Services	767,193	51,781	0	818,974	51,347	0	818,540	1,637,514	
Operating Expenses	150,828	(1,012)	0	149,816	154	0	150,982	300,798	
Total Costs	\$918,021	\$50,769	\$0	\$968,790	\$51,501	\$0	\$969,522	\$1,938,312	
General Fund	897,836	50,769	0	948,605	51,501	0	949,337	1,897,942	
State/Other Special	20,185	0	0	20,185	0	0	20,185	40,370	
Total Funds	\$918,021	\$50,769	\$0	\$968,790	\$51,501	\$0	\$969,522	\$1,938,312	

Sub-Program Description

This subprogram includes the youth transition center, a group home for youth returning to the community that is located in Great Falls. Construction of a new building was delayed as part of the spending reductions ordered by the Governor in accordance with 17-7-140, MCA.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category				General Fund				Total Funds			
Budget Item	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent Of Budget			
Base Budget	897,836	897,836	1,795,672	94.61%	918,021	918,021	1,836,042	94.72%			
Statewide PL Adjustments	16,322	17,054	33,376	1.76%	16,322	17,054	33,376	1.72%			
Other PL Adjustments	34,447	34,447	68,894	3.63%	34,447	34,447	68,894	3.55%			
New Proposals	0	0	0	0.00%	0	0	0	0.00%			
Total Budget	\$948,605	\$949,337	\$1,897,942		\$968,790	\$969,522	\$1,938,312				

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments					Fiscal 2012					Fiscal 2013				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds				
Personal Services					50,024									49,571
Vacancy Savings					(32,690)									(32,671)
Inflation/Deflation					(1,012)									154
Total Statewide Present Law Adjustments		\$16,322		\$0	\$0	\$16,322								\$17,054
DP 504 - YTC Overtime	0.00	34,447	0	0	34,447	0.00	34,447	0	0	0	0	0	0	34,447
Total Other Present Law Adjustments		0.00	\$34,447		\$0	\$0	\$34,447		0.00	\$34,447		\$0	\$0	\$34,447
Grand Total All Present Law Adjustments		0.00	\$50,769		\$0	\$0	\$50,769		0.00	\$51,501		\$0	\$0	\$51,501

DP 504 - YTC Overtime - This decision package requests funding for overtime and holidays worked, which are zero based budget items.

**LFD
COMMENT**

Please refer to the program summary for more information.

Sub-Program Details

PINE HILLS YOUTH CORRECTIONAL FACI 05

Sub-Program Proposed Budget

The following table summarizes the total executive budget for the sub-program by year, type of expenditure, and source of funding.

Sub-Program Proposed Budget		Base Budget Fiscal 2010	PL Base Adjustment Fiscal 2012	New Proposals Fiscal 2012	Total Exec. Budget Fiscal 2012	PL Base Adjustment Fiscal 2013	New Proposals Fiscal 2013	Total Exec. Budget Fiscal 2013	Total Exec. Budget Fiscal 12-13
Budget Item									
FTE	130.85	0.00	(3.00)	127.85	0.00	(3.00)	127.85	127.85	127.85
Personal Services	6,437,916	488,895	(186,702)	6,740,109	491,195	(187,681)	6,741,430	13,481,539	
Operating Expenses	1,087,878	(33,177)	0	1,054,701	(27,050)	0	1,060,828	2,115,529	
Benefits & Claims	48,492	0	0	48,492	0	0	48,492	96,984	
Total Costs	\$7,574,286	\$455,718	(\$186,702)	\$7,843,302	\$464,145	(\$187,681)	\$7,850,750	\$15,694,052	
General Fund	6,985,420	456,210	(186,702)	7,254,928	464,204	(187,681)	7,261,943	14,516,871	
State/Other Special	588,866	(492)	0	588,374	(59)	0	588,807	1,177,181	
Total Funds	\$7,574,286	\$455,718	(\$186,702)	\$7,843,302	\$464,145	(\$187,681)	\$7,850,750	\$15,694,052	

Sub-Program Description

This subprogram includes Pine Hills Youth Correctional Facility, the state operated institution for males, located in Miles City.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category		General Fund				Total Funds			
Budget Item		Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent Of Budget
Base Budget	6,985,420	6,985,420	13,970,840	96.24%	7,574,286	7,574,286	15,148,572	96.52%	
Statewide PL Adjustments	250,750	258,744	509,494	3.51%	250,258	258,685	508,943	3.24%	
Other PL Adjustments	205,460	205,460	410,920	2.83%	205,460	205,460	410,920	2.62%	
New Proposals	(186,702)	(187,681)	(374,383)	(2.58%)	(186,702)	(187,681)	(374,383)	(2.39%)	
Total Budget	\$7,254,928	\$7,261,943	\$14,516,871		\$7,843,302	\$7,850,750	\$15,694,052		

Present Law Adjustments

The "Present Law Adjustments" table shows the changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments					Fiscal 2012					Fiscal 2013				
	FTE	General Fund	State Special	Federal Special	Total Funds		FTE	General Fund	State Special	Federal Special	Total Funds			
Personal Services					563,505						565,879			
Vacancy Savings					(280,070)						(280,144)			
Inflation/Deflation					(33,177)						(27,050)			
Total Statewide Present Law Adjustments		\$250,750		(\$492)		\$0	\$250,258			\$258,744		(\$59)		\$0
DP 502 - PHYCF Overtime		0.00	172,960	0	0	172,960	0.00	172,960	0	0	172,960			
DP 505 - PHYCF Inmate Pay		0.00	32,500	0	0	32,500	0.00	32,500	0	0	32,500			
Total Other Present Law Adjustments		0.00	\$205,460	\$0	\$0	\$205,460	0.00	\$205,460	\$0	\$0	\$205,460			
Grand Total All Present Law Adjustments		0.00	\$456,210	(\$492)	\$0	\$455,718	0.00	\$464,204	(\$59)	\$0	\$464,145			

DP 502 - PHYCF Overtime - This decision package requests funding for overtime and holidays worked, which are zero based budget items.

LFD COMMENT

Please refer to the program summary for more information.

DP 505 - PHYCF Inmate Pay - This decision package requests funding for inmate pay, which is a zero based budget item.

LFD COMMENT

Please refer to the program summary for more information.

New Proposals

The "New Proposals" table summarizes all new proposals requested by the Governor. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals					Fiscal 2012					Fiscal 2013				
Sub Program	FTE	General Fund	State Special	Federal Special	Total Funds		FTE	General Fund	State Special	Federal Special	Total Funds			
DP 55400 - YSD FTE Reductions		(05)	(3.00)	(186,702)	0	0	(186,702)	(3.00)	(187,681)	0	0	(187,681)		
Total		(3.00)	(\$186,702)	\$0	\$0	(\$186,702)	(3.00)	(\$187,681)	\$0	\$0	(\$187,681)			

DP 55400 - YSD FTE Reductions - The executive recommends a 4% reduction of personal services funded with general fund. The reduction includes the permanent reduction of FTE.

LFD COMMENT

Please refer to the discussion of the 5% plan above for additional information about the FTE reductions.

Sub-Program Details

JUVENILE PLACEMENT FUNDS 06

Sub-Program Proposed Budget

Sub-Program Proposed Budget	Base Budget Fiscal 2010	PL Base Adjustment Fiscal 2012	New Proposals Fiscal 2012	Total Exec. Budget Fiscal 2012	PL Base Adjustment Fiscal 2013	New Proposals Fiscal 2013	Total Exec. Budget Fiscal 2013	Total Exec. Budget Fiscal 12-13
Budget Item								
Operating Expenses	1,636	0	0	1,636	0	0	1,636	3,272
Benefits & Claims	3,294,590	0	0	3,294,590	0	0	3,294,590	6,589,180
Transfers	2,848,231	0	0	2,848,231	0	0	2,848,231	5,696,462
Total Costs	\$6,144,457	\$0	\$0	\$6,144,457	\$0	\$0	\$6,144,457	\$12,288,914
General Fund	5,918,657	0	0	5,918,657	0	0	5,918,657	11,837,314
State/Other Special	214,101	0	0	214,101	0	0	214,101	428,202
Federal Special	11,699	0	0	11,699	0	0	11,699	23,398
Total Funds	\$6,144,457	\$0	\$0	\$6,144,457	\$0	\$0	\$6,144,457	\$12,288,914

Sub-Program Description

This subprogram includes funding that is utilized by parole officers to place youth in community residential placements. These funds are also utilized by Juvenile Probation Officers and Youth Courts within the Judicial Branch for the placement of youth on probation.

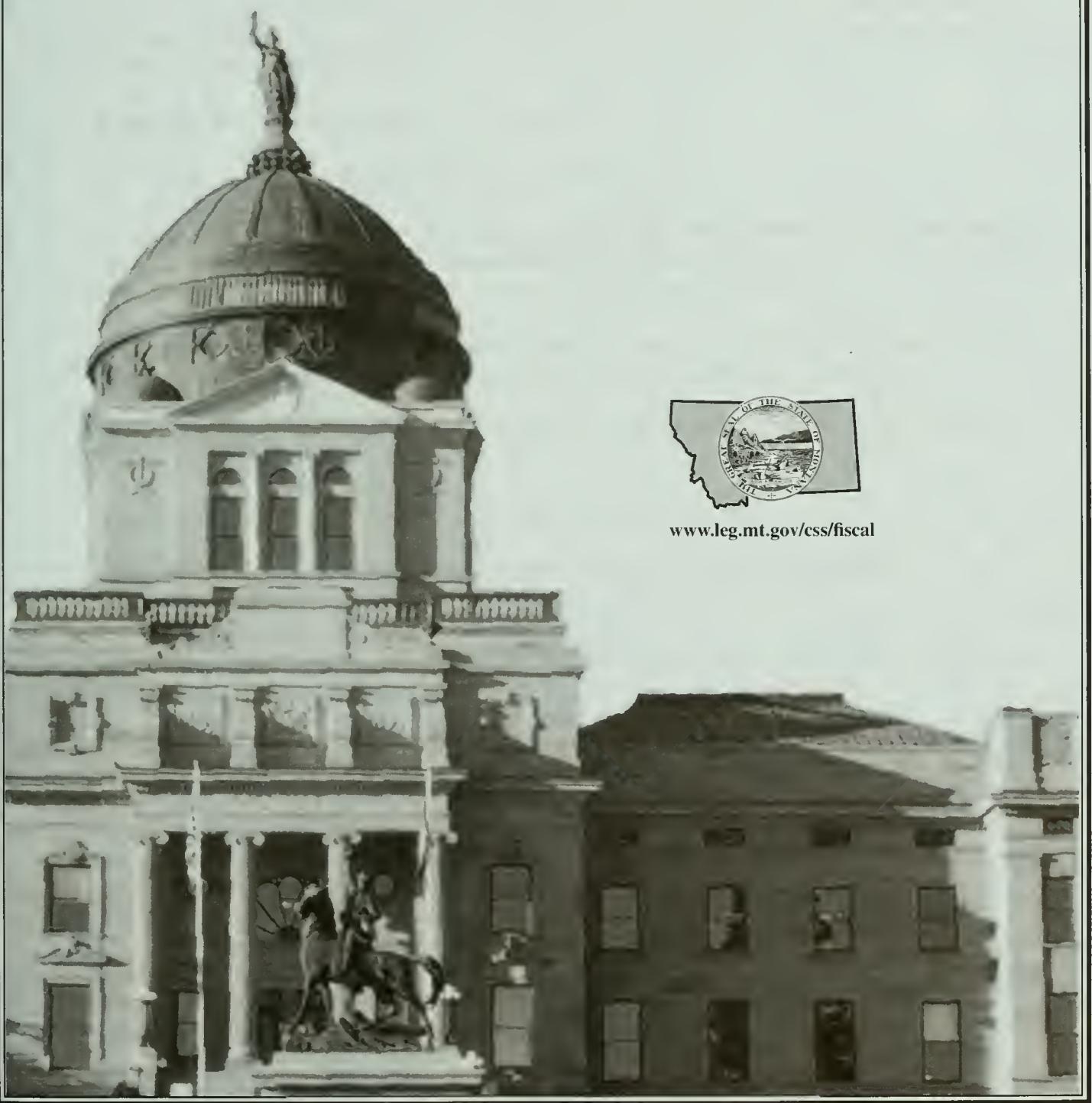
Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	General Fund				Total Funds			
	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent Of Budget
Base Budget	5,918,657	5,918,657	11,837,314	100.00%	6,144,457	6,144,457	12,288,914	100.00%
Statewide PL Adjustments	0	0	0	0.00%	0	0	0	0.00%
Other PL Adjustments	0	0	0	0.00%	0	0	0	0.00%
New Proposals	0	0	0	0.00%	0	0	0	0.00%
Total Budget	\$5,918,657	\$5,918,657	\$11,837,314		\$6,144,457	\$6,144,457	\$12,288,914	



Glossary / Acronyms / Index



www.leg.mt.gov/css/fiscal



Glossary

A number of terms are used extensively in budgeting and appropriations. The most common terms, which are used throughout the budget analysis and in other fiscal materials, are listed and defined below.

Adjusted Base – The base budget, the level of funding authorized by the previous legislature, modified by annualization of personal services costs, inflationary or deflationary factors, changes in fixed costs, etc.

Appropriations – An authorization by law for the expenditure of funds or to acquire obligations. Types of appropriations are listed below.

Biennial – A biennial appropriation is an appropriation made in the first year of the biennium, where the appropriated amount can be spent in either year of the biennium. In HB 2, it can be split between years, but still be biennial if so indicated.

Budget amendment – See “Budget Amendment” below.

Continuing – An appropriation that continues beyond one biennium.

Language – An appropriation made in the language of the general appropriations act for a non-specific or limited dollar amount. Language appropriations are generally used when an agency knows that it will be receiving federal or state special revenue funds but is uncertain as to the amount.

Line Item – An appropriation made for a specific purpose. Line item appropriations highlight certain appropriations and ensure that they can be separately tracked on the state accounting system.

One-time – Appropriations for a one-time purpose that are excluded from the base budget in the next biennium.

Restricted – An appropriation designated for a specific purpose or function.

Statutory – Funds appropriated in permanent law rather than a temporary bill. All statutory appropriations references are listed in 17-7-502, MCA.

Temporary - An appropriation authorized by the legislature in the general appropriations act or in a “cat and dog” bill that is valid only for the biennium.

Appropriation Transfers (also see ”Supplemental Appropriation”) – The transfer of funds appropriated for the second year of the biennium to the first if the Governor or other approving authority determines that due to an unforeseen or unanticipated emergency there are insufficient funds in the first year for the operation of an agency.

Approving Authority – The entity designated in law as having the authority to approve certain budgetary changes during the interim. The approving authorities are:

- The Governor or his/her designated representative for executive branch agencies
- The Chief Justice of the Supreme Court or his/her designated representative for the judicial branch agencies
- The Speaker of the House of Representatives for the House
- The President of the Senate for the Senate

- The appropriate standing legislative committees or designated representative for the legislative branch divisions
- The Board of Regents of Higher Education or their designated representative for the university system

Average Daily Population (ADP) – The population measure used to calculate population in the Montana correctional system. ADP is equivalent to one inmate incarcerated for one year.

Average Number Belonging (ANB) – The enrollment measure used for K-12 BASE aid calculations. ANB is the equivalent of one full-time student enrolled in school for the full school year.

Base – The level of funding authorized by the previous legislature.

Base Budget – The resources needed for the operation of state government that provide for expenses of an ongoing and non-extraordinary nature in the current biennium.

Benefits – An expenditure category used to account for the provision of payments or services by the government to individuals who qualify for receipt of those payments or services, such as Medicaid benefits. Personal services benefits for state employees are included in the personal services expenditure category.

Biennial Appropriation – An appropriation that can be expended in either or both years of the biennium.

Biennium – A two-year period. For the state, this period begins July 1 of the odd-numbered years and ends June 30 of the following odd-numbered year.

Budget Amendments – Temporary authority to spend unanticipated non-general fund revenue received after the legislature adjourns. The funds must be used to provide additional services and cannot make a commitment of general fund support for the present or future.

Cat and Dog Appropriations – One-time appropriations made in bills other than the general appropriations act.

Debt Service – The payment on outstanding bonds.

Decision Package – Separate, specific adjustments to the base budget. Decision packages can be either present law adjustments or new proposals.

Earmarked Revenue – Funds from a specific source that can be spent only for designated activities.

Enterprise Funds – A fund used to account for operations financed and operated similar to private business enterprises, where the intent of the legislature is to finance or recover costs, primarily through user charges.

Federal Special Revenue – Accounts deposited in the state treasury from federal sources, to be used for the operation of state government.

Fiduciary Funds – Funds used to account for assets held by the state in a trustee capacity or as an agent for individuals, private organizations, other governments, or other funds.

Fiscal Note - An estimate, prepared by the Governor's Office of Budget and Program Planning, of the probable revenues and costs that will be incurred as the result of a bill or joint resolution.

Fiscal Year (FY) aka State Fiscal Year (SFY) – A 12-month accounting period beginning July 1 and ending June 30. Fiscal year 2003 refers to the fiscal year ending June 30, 2003. (Note: The federal fiscal year (FFY) is October 1 through September 30.)

Fixed Costs – Fees (fixed costs) charged to agencies for a variety of services provided by other state agencies (e.g., payroll service fees, rent, warrant writing services, and data network services.).

FTE – Full-Time Equivalent position, or the equivalent of one person working full-time for the entire year. Also used to denote full-time equivalent students in the Montana University System for purposes of calculating state support.

Fund – A fiscal entity with revenues and expenses which are segregated for the purpose of carrying out a specific purpose or activity.

General Fund – Accounts for all governmental financial resources except those that must be accounted for in another fund.

General Fund Reversions – Unspent appropriated funds that are returned to the general fund at the close of the budget period (fiscal year).

Grants – An expenditure category used to account for the payment by a government entity to an individual or other entity who will perform a service.

HB 2 –The General Appropriations Act in which the legislature authorizes the funding for state government for the upcoming biennium. Each session, House Bill 2 is reserved for this purpose.

Indirect Cost – A cost necessary for the functioning of the organization as a whole, but which cannot be directly assigned to a specific division or agency.

Interim – The time between regular legislative sessions.

Internal Service Funds – Funds used to account for the financing of goods and services provided by one department or agency to other departments, agencies, or governmental entities on a cost-reimbursement basis.

IRIS - The Integrated Revenue Information System (IRIS) is an automated system to administer taxes that are the responsibility of the Department of Revenue to collect.

Local Assistance – An expenditure classification primarily used to account for expenditures made for K-12 funding provided by the state to school districts.

MBARS – The Montana Budget Analysis and Reporting System, which provides all state agencies with one computerized system for budget development, maintenance and tracking, and is integrated with the State Accounting, Budget, and Human Resource System (SABHRS).

Mill – The property tax rate based on the valuation of property. A tax rate of one mill produces one dollar of taxes on each \$1,000 of assessed property value.

New Proposals – Requests (decision packages) to provide new non-mandated services, to change program services, to eliminate existing services, or to change the source of funds.

Non-budgeted Expenditures – Accounting entries for depreciation, amortization, and other financial transactions that appear as expenditures, but don't actually result in direct dispersal of funds from the state treasury.

Non-budgeted Transfer – Funds moved from one account to another in the state accounting system based upon statutory authority but not by appropriation in the general appropriations act.

Operating Expenses – All operating expenditures that do not meet the personal services and capital outlay classification criteria. These expenditures include, but are not limited to, professional services, supplies, rent, travel, and repair and maintenance.

Other Funds – Capital projects and fiduciary funds.

Capital projects fund – Accounts for financial resources used for the acquisition or construction of major capital facilities, other than those financed by proprietary funds or trust funds.

Fiduciary funds – Trust and agency fund types used to account for assets held by state government in a trustee capacity or as an agency for individuals, private organizations, other governmental entities, or other funds.

Pay Plan – Provision by the legislature of a general adjustment to salaries and/or benefits paid to state employees. Also refers to the pay schedule listing the state salary rate for each classified position according to that position's grade and the market rate.

Personal Services – Expenditures for salaries, benefits, per diem, and other additions, such as overtime.

Personal Services Snapshot – The point in time at which personal services attributes are captured and from which the personal services budget is determined. The executive budget personal services costs are based on a “snapshot” of actual salaries for authorized FTE as they existed in a pre-determined pay period in the base year.

Present Law – The additional level of funding needed under present law to maintain operations and services at the level authorized by the previous legislature.

Present Law Adjustments – Requests (decision packages) for an adjustment in funding sufficient to allow maintenance of operations and services at the level authorized by the previous legislature (e.g., caseload, enrollment changes, and legally mandated workload).

Program – A group of related activities performed by one or more organizational units for the purpose of accomplishing a function for which the government is responsible. Also, a grouping of functions or objectives that provides the basis for legislative review of agency activities for appropriations and accountability purposes.

Proprietary Funds – Enterprise or internal service funds. Statute does not require that most proprietary funds be appropriated.

Enterprise funds – Funds that account for operations financed and operated in a manner similar to private business enterprises, and through which the intent is to provide goods or services to the public.

Internal service funds- Funds that account for the financing of goods or services provided by one department or agency to other departments or agencies of state government.

Reporting Levels – Budget units dividing agency and program budgets into smaller units for the purpose of constructing, analyzing, and approving budgets.

SABHRS – The State Accounting, Budget, and Human Resource System that combines the state's accounting, budgeting, personnel, payroll, and asset management systems into one single system.

State Special Revenue – Accounts for money from state and other nonfederal sources that is earmarked for a particular purpose, as well as money from other non-state or nonfederal sources that is restricted by law or by the terms of an agreement.

Supplemental Appropriation – An additional appropriation made by the governing body after the budget year or biennium has started. There are two types of supplemental appropriations that can be used to increase spending authority for a fiscal year: 1) a transaction in an even-numbered year that moves spending authority from the second year of the biennium to the first year; or 2) an appropriation passed and approved by the legislature to provide authority for the odd-numbered fiscal year ending the current biennium.

Vacancy Savings – The difference between what agencies actually spend for personal services and the cost of fully funding all funded positions for the entire year.

Acronyms

AES	Agricultural Experiment Station	DOC	Department of Commerce
ACA	Affordable Care Act	DOC	Department of Corrections
ADP	Average Daily Population	DOJ	Department of Justice
AMDD	Addictive & Mental Disorders Division	DOLI	Department of Labor and Industry
ANB	Average Number Belonging (K-12 education)	DOR	Department of Revenue
ARM	Administrative Rules of Montana	DOT	Department of Transportation
ARRA	American Recovery and Reinvestment Act	DP	Decision Package
BASE Aid	Base Amount for School Equity Aid	DPHHS	Department of Public Health and Human Services
BPE	Board of Public Education	ES	Extension Service
C&A	Cultural and Aesthetic (Trust)	FCES	Forestry and Conservation Experiment Station
CC	Community Colleges	FMAP	Federal Medical Assistance Percentage (Medicaid match rate)
CES	Cooperative Extension Service	FSR	Federal Special Revenue
CHE	Commissioner of Higher Education	FSTS	Fire Services Training School
CHIP	Children's Health Insurance Program (also SCHIP)	FTE	Full-Time Equivalent
CIO	Chief Information Officer	FWP	Department of Fish, Wildlife, and Parks
COPP	Commissioner of Political Practices	FFY	Federal Fiscal Year
COT	College of Technology, followed by campus designation	FY	Fiscal Year
CPI	Consumer Price Index	FYE	Fiscal Year End
DEQ	Department of Environmental Quality	GAAP	Generally Accepted Accounting Principles
DMA	Department of Military Affairs	GF	General Fund
DNRC	Department of Natural Resources and Conservation	GSL	Guaranteed Student Loan
DOA	Department of Administration	GTB	Guaranteed Tax Base
DOAg	Department of Agriculture	HB	House Bill
		HAC	House Appropriations Committee

HMK	Healthy Montana Kids	OPI	Office of Public Instruction
HRD	Health Resources Division	OTO	One-Time-Only
HSRA	Highways Special Revenue Account	PERS	Public Employees Retirement System
I&I	Interest and Income	PL	Present Law
IT	Information Technology	PPACA	Patient Protection and Affordable Care Act (Federal Health Care Reform)
ITSD	Information Technology Services Division	PSC	Public Service Commission
LAD	Legislative Audit Division	PSR	Public Service Regulation
LEPO	Legislative Environmental Policy Office	QSFp	Quality School Facilities Program
LFA	Legislative Fiscal Analyst	RDGP	Reclamation and Development Grant Program
LFC	Legislative Finance Committee	RIGWA	Resource Indemnity and Groundwater Assessment Tax
LFD	Legislative Fiscal Division	RIT	Resource Indemnity Trust
LRBP	Long-Range Building Program	RRGL	Renewable Resource Grant & Loan Program
LRITP	Long-Range Information Technology Program	RTIC	Revenue & Transportation Interim Committee
LRP	Long-Range Planning	SA	Statutory Appropriation
LSD	Legislative Services Division	SABHRS	Statewide Accounting, Budgeting, and Human Resources System
MAC	Montana Arts Council	SAFETEA-LU	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users
MBARS	Montana Budgeting, Analysis, and Reporting System	SAO	State Auditor's Office
MBCC	Montana Board of Crime Control	SAVA	State Administration & Veterans' Affairs Interim Committee
MBMG	Montana Bureau of Mines and Geology	SB	Senate Bill
MCA	Montana Code Annotated	SBECP	State Building Energy Conservation Program
MCHA	Montana Comprehensive Health Association	SF&C	Senate Finance and Claims Committee
MDC	Montana Developmental Center	SLTC	Senior & Long-Term Care Division
MDT	Montana Department of Transportation	SOS	Secretary of State
MHP	Montana Highway Patrol	SSR	State Special Revenue
MHS	Montana Historical Society	SWPLA	Statewide Present Law Adjustment
MSDB	Montana School for the Deaf and Blind	TANF	Temporary Assistance for Needy Families
MSF	Montana State Fund	TRS	Teachers' Retirement System
MSL	Montana State Library	TSEP	Treasure State Endowment Program
MSP	Montana State Prison	TESPRW	Treasure State Endowment Program Regional Water Systems
MSU	Montana State University, followed by campus designation i.e. MSU – Bozeman	UM	University of Montana, followed by campus designation i.e. UM – Missoula
MUS	Montana University System		
MWP	Montana Women's Prison		
NP	New Proposal		
OBPP	Office of Budget and Program Planning (Gov.)		
OCHE	Office of the Commissioner of Higher Education		

Index for Volumes 3 through 7

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